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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1966

No. 1101

GORDON L. EVANSON AND MELBA P. EVANSON
PAUL DAN ROSSO AND PAULINA M. ROSSO,
PETITIONERS,

VS.

NORTHWEST HOLDING COMPANY,
A MINNESOTA CORPORATION,
RESPONDENT.

PETITION FOR A WRIT OF CERTIORARI

To the United States Court of Appeals
for the Eighth Circuit.

PAUL DAN ROSSO
MELBA P. EVANSON
7 Ortman Street Southeast
Minneapolis, Minnesota, 55414

In Their Own Behalf
PETITIONERS

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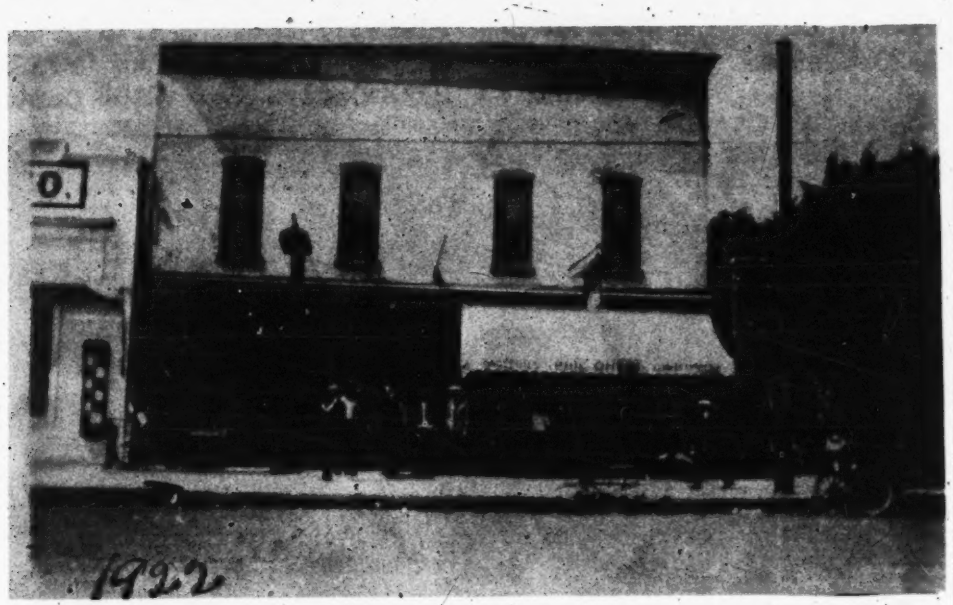
PATTON ON TITLES SECOND EDITION

THE HOMESTEAD - 2324-2326 CENTRAL AVENUE N. E.
IN 1922 MINNEAPOLIS, MINNESOTA



THE HOMESTEAD - 2324-2326 CENTRAL AVENUE N. E.
IN 1967 MINNEAPOLIS, MINNESOTA

[redacted]

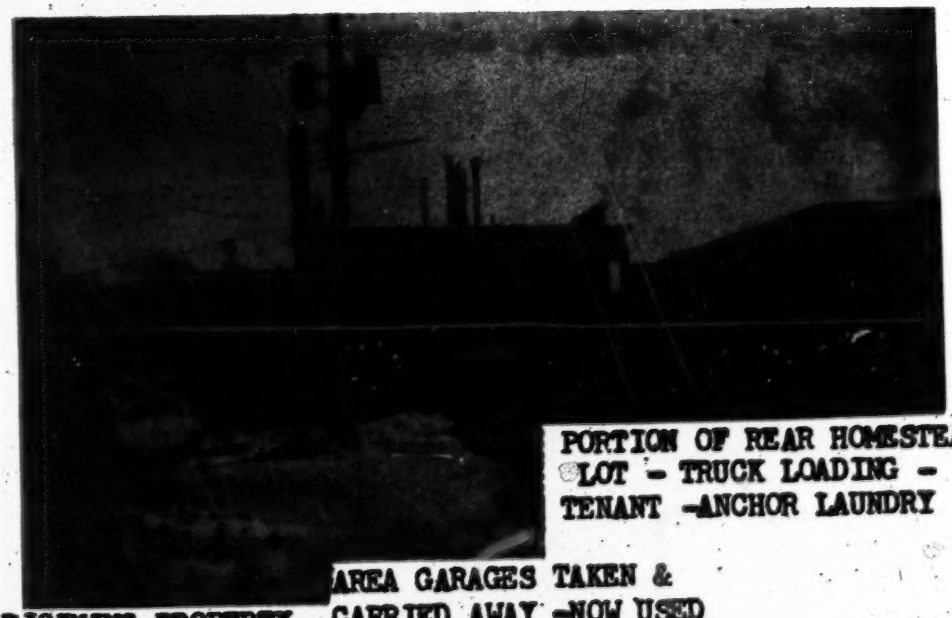
ANCHOR LAUNDRY
2320 Central

HOMESTEAD
2324-26
Central

FIDELITY SEC.
& INV. CO.
2338 Central

ATTNY. FUDALI
LAW OFFICES
2408 Central

[redacted]

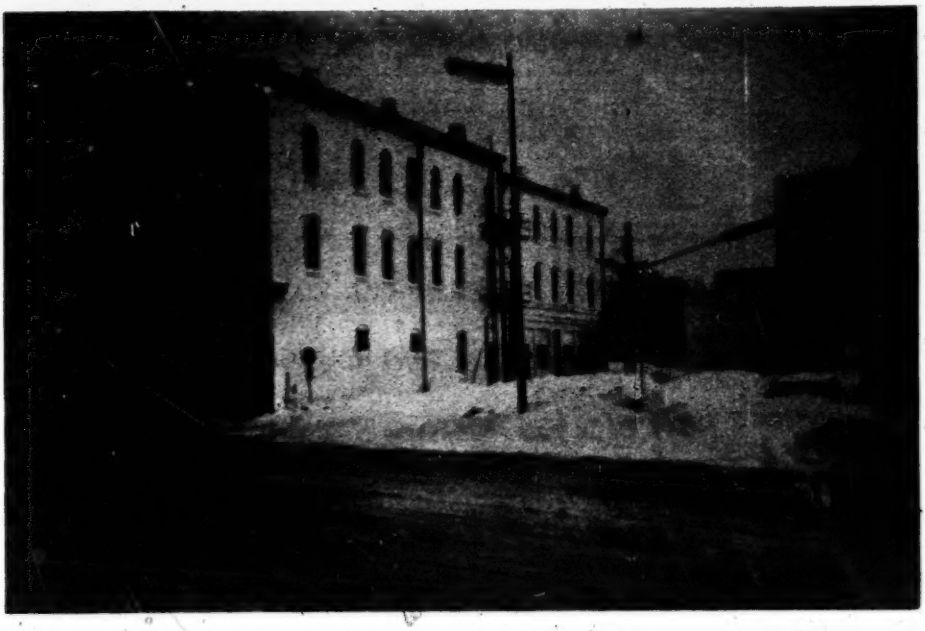


PORTION OF REAR HOMESTEAD
LOT - TRUCK LOADING -
TENANT -ANCHOR LAUNDRY

ADJOINING PROPERTY
FIDELITY SECURITIES

AREA GARAGES TAKEN &
CARRIED AWAY -NOW USED
BY FIDELITY SEC.&INV.CO.

208 EAST HENNEPIN AVENUE
MINNEAPOLIS, MINNESOTA



IN THE

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1966

No. .....

GORDON L. EVANSON AND MELBA P. EVANSON

PAUL DAN ROSSO AND PAULINA M. ROSSO,

PETITIONERS,

VS.

NORTHWEST HOLDING COMPANY,

A MINNESOTA CORPORATION,

RESPONDENT.

PETITION FOR A WRIT OF CERTIORARI

To the United States Court of Appeals
for the Eighth Circuit.

OPINION BELOW.

The Opinion of the Court of Appeals is set forth in the Appendix, infra, pp. 116 and is officially reported in 368 F. (2d) 531 (1966).

A TIMELY PETITION FOR WRIT OF MANDAMUS, TO THE U.S. DISTRICT COURT OF MINNESOTA, TO EXERCISE ITS PRESCRIBED JURISDICTION, WAS DENIED, IN A DATED FEBRUARY 16, 1966, ORDER, BY THE U.S. COURT OF APPEALS. (Not yet reported in the Federal Reporter System).

THE FINAL OPINION OF THE U.S. DISTRICT COURT, MINNESOTA, IS NOT REPORTED, AND IS APPENDED AT PAGE 184A.

THE FIRST OPINION OF THE U.S. DISTRICT COURT IS NOT REPORTED, AND IS APPENDED AT PAGE 170A.

THE OPINION OF THE MINN. SUPREME COURT IS OFFICIALLY REPORTED at 265 MINN. 562 (1963).

JURISDICTION

AN OPINION AFFIRMING THE JUDGMENT OF THE U.S. DISTRICT COURT OF MINNESOTA, WHICH DISMISSED PETITIONERS' COMPLAINT, WAS FILED BY THE U.S. COURT OF APPEALS ON NOVEMBER 15, 1966.

A TIMELY MOTION IN ARREST OF JUDGMENT AND THE JUDGMENT IS VOID AND MOTION TO REVIEW THE DISTRICT COURT RECORD FOR PURPOSES OF CORRECTION BY REHEARING WAS FILED, AND SAME WAS DENIED BY THE COURT ON NOVEMBER 29, 1966.

THE MANDATE OF THE U.S. COURT OF APPEALS WAS ISSUED ON DECEMBER 13, 1966.

THE JURISDICTION OF THIS COURT IS INVOKED UNDER 28 U.S.C., SECTION 1254 (1).

QUESTIONS PRESENTED

THE VIOLATION OF PETITIONERS' ABSOLUTE HOMESTEAD RIGHTS TO BE SECURE FROM INVASION AND SEIZURE, IN DISTURBANCE OF THE PUBLIC PEACE, OF THE HOMESTEAD

PROPERTY, TOGETHER WITH THE PERSONAL POSSESSIONS CONTAINED THEREIN, UNDER THE FOURTH AND FIFTH AMENDMENTS OF THE U. S. CONSTITUTION,

AND, THE VIOLATION OF PETITIONERS' RIGHTS TO BE SECURE AGAINST THE MALICIOUS USE AND ABUSE OF LEGAL PROCESS, IN AN INTERLOCKED SERIES OF TRANSACTIONS, INVOLVING FRAUD, COLLUSION, AND CONSPIRACY, TO OBTAIN MONEY, RENTS, REAL AND PERSONAL PROPERTY, UNDER THE FIFTH AND FOURTEENTH AMENDMENTS,

AND, THE VIOLATION OF PETITIONERS' ABSOLUTE RIGHTS, WHILE SEEKING RELIEF IN THE HENNEPIN COUNTY COURT, THE MINNEAPOLIS MUNICIPAL CRIMINAL COURT, AND THE MINNESOTA SUPREME COURT, UNDER THE SEVENTH AND FOURTEENTH AMENDMENTS,

INVOLVES SUBSTANTIAL FEDERAL RIGHTS, AS MADE APPLICABLE TO THE STATES BY ARTICLE IV, SECTIONS 1, 2, and 4, AND AMENDMENTS 4, 5, 6, 7, 9, and 14 of the U. S. CONSTITUTION, IN EACH OF THE FOLLOWING QUESTIONS PRESENTED :

I. IN MINNESOTA SUPREME COURT
II. IN U. S. DISTRICT COURT, AND,
III. IN U. S. COURT OF APPEALS.

I. IN MINNESOTA SUPREME COURT.

1. WOULD the Minn. Supreme Court be authorized to dismiss a timely Appeal made in accordance to an applicable decision of the U.S. Supreme Court, (119 U.S. 608), WHEN, the facts clearly show, INVASION and SEIZURE of the HOMESTEAD, together with the Personal Possessions contained therein, IN DISTURBANCE OF THE PUBLIC PEACE, by FORCE, ORGANIZED VIOLENCE and TERROR, under "color of law"?

2. WOULD the Minn. Supreme Court be authorized to dismiss a timely Appeal, made in accordance to the UNLAWFUL DETAINER STATUTE CHAP. 566, WHEN, the facts clearly show, NO SERVICE in U. D. was made upon PAUL DAN ROSSO and PAULINA ROSSO —

AND, the Complaint in unlawful detainer served upon GORDON EVANSON and MELBA P. EVANSON, did not state a claim, in accordance to the unlawful detainer statute—

AND, the Criminal Court Hearing before Municipal Judge BRUCE C. STONE, did not show the N. W. HOLDING CO., A MINN. CORP., had the right of restitution of the premises —

AND, the Court failed to make findings, as required by the Court Rules and adjudicated cases,

AND, the four defendants each asserted PEACEABLE POSSESSION AND ABSOLUTE HOMESTEAD RIGHTS —

AND, the Judge did not issue the writ of restitution, as required by Statute, but instead, the writ was issued by a deputy clerk of Court?

3. WOULD the Minn. Supreme Court be authorized to dismiss a timely Appeal, made in accordance to the LANDLORD-TENANT STATUTE CHAP. 504, and 566,

(THREE CONSOLIDATED CASES in Unlawful Detainer - breach of contract to pay rent),

(TWO CONSOLIDATED CASES in Unlawful Entry - failure to vacate after one month's written notice to quit),

WHEN THE FACTS CLEARLY SHOW,

the Homestead-Landlord had the right to restitution of the premises from mere Tenants, who had breached their contract to pay rent, and attorned to a stranger, — AND, WHEN THE FACTS CLEARLY SHOW the Homestead-Landlord had the right to restitution of the premises from mere Trespassers, who had made unlawful entry without force, were served one month's Notice to Quit and continues to hold over, in unlawful possession of the premises?

4. WOULD the Minn. Supreme Court be authorized to dismiss a timely Appeal, made in accordance to M.R.C.P., RULE 65, and F.R.C.P., RULE 65, (CONSOLIDATED CASE), WHEN, the facts clearly show the FIDELITY SECURITIES & INVESTMENT CO., A MINN. CORPORATION, acted in collusion, together with the N. W. HOLDING CO., A MINN. CORP; the TITLE INSURANCE COMPANY OF MINNESOTA; the TWIN CITY FEDERAL SAVINGS & LOAN ASSOCIATION; the HENNEPIN COUNTY DISTRICT COURT; and the MINNEAPOLIS MUNICIPAL COURT; as well as the HENNEPIN COUNTY REGISTER OF DEEDS OFFICE, T O D E P R I V E the Homestead-Landlord, of the RIGHT OF POSSESSION of the HOMESTEAD PREMISES, from mere Tenants and Trespassers, who had breached their contract to pay rent, and attorned to a stranger, AND, continue to hold over in unlawful possession of the premises?

5. WOULD the Minn. Supreme Court be authorized to dismiss a timely Appeal, made in accordance to the TORRENS TITLE STATUTE CH. 508.02, (an interlocked series of transactions in the N.W. Holding Co. unlawful detainer action), WHEN, the facts clearly show that

Bound

PERSONAL SERVICE WAS NEVER MADE UPON defendants PAUL DAN ROSSO, & GORDON L. EVANSON, to vest the Court with JURISDICTION. The SHERIFF'S RETURN, does not contain a statement that defendants could not be found, NOR ANY REASON, why personal service was not made as required by the Court Rules.

AND, the Judges in Hennepin County District Court, acted in concert with several large law firms, the Hennepin County Sheriff, together with Homestead Neighbors and Others, to set up a prescription title, to the Homestead Premises, (Application in Land Registration Case No. 14838, by WILLIAM HOLMES), in derogation of that of the Registered Homestead Owner-Occupant?

6. WOULD THE Minn. Supreme Court be authorized to dismiss a timely Appeal, made in accordance to the HOMESTEAD STATUTE, CH. 510, AND, the TORRENS TITLE STATUTE 508, (an interlocked series of transactions in the N.W. Holding Co., unlawful detainer action), WHEN, the facts clearly show, the HOMESTEAD TITLE WAS PROPERLY RECORDED IN THE REGISTER OF DEEDS OFFICE;

WHEN, the facts clearly show, the TAXES were assessed

by the City Assessor, at the HOMESTEAD RATE; the Occupants of the Homestead were the REGISTERED OWNERS, A N D,

a. Personal Service in Land Registration, was made APRIL 5, 1961, upon PAULINA ROSSO and MELBA EVANSON THREE (3) SEPARATE TIMELY ANSWERS were made by CERTIFIED MAIL, to the Land Registration Proceedings, ADDRESSED TO, the Clerk of Henn. Cty. District Court, by the Homestead Occupants, namely, MR. AND MRS. GORDON L. EVANSON; MR. PAUL DAN ROSSO and MRS. PAULINA ROSSO. (See: ENVELOPE #6, Filed : 13 Dec. 1963, U.S. Dis. Ct., Case 4-63 Civ. 457).

b. NO FOLLOW-UP SERVICE, Rule 38.03, filed with Proof of Service, Rule 4.06, was EVER made upon ANY OF THE HOMESTEAD OCCUPANTS, N O R, upon a Neighbor, who made Answer, to VEST THE COURT WITH NECESSARY JURISDICTION.

c. On AUGUST 2, 1961, the Clerk of Court filed Proof of Service, together with an Affidavit of "NO ANSWER

F.R.C.P., RULE 4 (g) RETURN.
THE PERSON SERVING THE PROCESS SHALL MAKE PROOF OF SERVICE THEREOF TO THE COURT PROMPTLY AND IN ANY EVENT WITHIN THE TIME DURING WHICH THE PERSON SERVED MUST RESPOND TO THE PROCESS.

ON AUGUST 8, 1961, DURING NOON HOUR, WITHOUT NOTICE, OR HEARING, JUDGE EARL J. LYONS, SIGNED THE DECREE OF REGISTRATION. THE DECREE WAS ENTERED THE SAME DAY.
84 S.CT. 411 6. Judgment key 17(1). ADEQUATE AND TIMELY NOTICE IS A PREREQUISITE TO A VALID JUDGMENT.

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d. The Torrens Title Statute, clearly states in part, 508.02, "...NO TITLE TO REGISTERED LAND IN DEROGATION OF THAT OF THE REGISTERED OWNER SHALL BE ACQUIRED BY PRESCRIPTION OR BY ADVERSE POSSESSION."

e. The Minn. Constitution, ARTICLE 1, Sec. 12, clearly provides for Property Exemptions, an ABSOLUTE RIGHT for the security, benefit and protection of the people.

f. The HOMESTEAD STATUTE, CH. 510, and the PROPERTY EXEMPT, CH. 550.37, were determined by law, in accordance to the Constitution.

g. The adjudicated cases in Minnesota, clearly support the ABSOLUTE HOMESTEAD RIGHTS.

h. NO NOTICE of ANY HEARING, OR, the entry of the decree in Registration, WAS EVER SERVED upon the Homestead Occupants, RULE 77.04.

7. Would the Minn. Supreme Court be authorized to dismiss a timely Appeal, made in accordance to U. S. Amendment 14; 18 USC 1001, 1018, and 1506, and the Unlawful Detainer Statute CH. 566, (an interlocked series of transactions in the N. W. Holding Co. U. D. action) HOLMES v. ROSSO, U.D. Action for the right of possession of the 208 EAST HENNEPIN AVENUE BUILDING, Mpls., W H E N,

facts clearly show, the Complaint did not state a claim as required by the Unlawful Detainer Statute; the Criminal Court hearing before Municipal Judge LUTHER SLETTEN, did not show that WILLIAM HOLMES had the right to restitution of the 208 EAST HENNEPIN AVENUE BUILDING, Mpls., Minn., NO FINDINGS were made, as required by the Court Rules, and the Judge did not issue the writ of restitution, as required by Statute, BUT INSTEAD, the writ was issued by the Deputy Clerk of Court?

8. Would the Minn. Supreme Court be authorized to dismiss a timely Appeal, made in accordance to Minn. Statute CH. 550.05, and adjudicated case 6 N.Y. 2d 35, (an interlocked series of transactions in the N.W. Holding Co. U.D. action) LEDWEIN v. PAUL ROSSO, DAN ROSSO, PAULINA ROSSO and WM. HOLMES, W H E N, the facts clearly show:

(a) Execution was returned "UNSATISFIED" in BOTH the LEDWEIN v. ROSSO, and the HOLMES v. ROSSO cases, and is equivalent to being "vacated and set aside",

(b) Additional judicial action is not provided by the plain language of the Statute,

IN THE ADDITIONAL JUDICIAL ACTION, NOT AUTHORIZED :

(a) Personal Service was NEVER made upon PAUL ROSSO and PAULINA ROSSO.

The Sheriff's Return does not contain a statement that PAUL ROSSO and PAULINA ROSSO, could not be found, NOR, ANY REASON WHY, Personal Service was NOT MADE.

(b) ANSWER was made, by Attorney HENRY JOHNSON, representing DAN ROSSO, PAULINA ROSSO, and PAUL ROSSO, a general denial.

(c) WILLIAM HOLMES was a "collusively joined defendant", invoking 28 USC 1359.

(d) NO FOLLOW UP SERVICE was ever made upon ANY OF THE PARTIES, to VEST the Court with JURISDICTION.

(e) WITHOUT ORIGINAL PERSONAL SERVICE (Rule 4) ON PAUL ROSSO and PAULINA ROSSO; WITHOUT FOLLOW-UP SERVICE (Rule 38.02) UPON DAN ROSSO; WITHOUT NOTICE (Rule 5.01); and WITHOUT HEARING; and WITHOUT JURISDICTION, DEFAULT JUDGMENT WAS ENTERED. Henn. Cty. Dis. Ct. Case 547205.

(f) NO COPY OF THE JUDGMENT WAS EVER SERVED, (Rule 77.04).

9. WOULD the Minn. Supreme Court be authorized to dismiss a timely Appeal, made in accordance to a Federal Statute, 18 USC 241 et seq., 42 USC 1981 et seq., U.S. Amendment 5 and 14, MRCP, RULE 28.03, Minnesota Statute CH. 550.05, (an interlocked series of transactions in the N.W. Holding Co., unlawful detainer action) LEDWEIN v. ROSSO, WHEN, the facts clearly show, Judge ROLF FOSSEEN did not have JURISDICTION, because EXECUTIONS were returned UNSATISFIED, AND ALSO, the Court Rules PROHIBIT the taking of depositions before an employee of Plaintiff LEDWEIN'S attorney, SAMUEL SALITERMAN?

10. WOULD the Minn. Supreme Court be authorized to dismiss a timely Appeal, made in accordance to Federal Statute 18 USC 1001, 1018, and 1506, and the FALSE STATEMENT IN ADVERTISING STATUTE CH. 620.52; and the Minneapolis CITY ORDINANCE SEC. 1; 1-501, Type 4 and Type 5, (an interlocked series of transactions in the N.W. Holding Co. action) HOLMES v. ROSSO, Specific Performance Suit, W H E N, the facts clearly show the advertisement was false, the building

ound

was of wood construction, not masonry, AND, in a dated JUNE 24, 1958, ORDER, Judge PAUL S. CARROLL stated, "....all things denied, Stay 10 Days" — a FINAL ORDER, that had not been vacated, set aside or appealed from? 3 FRD 289. 18 USC 1506.

(The County Attorney GEORGE SCOTT; the Real Estate Licensing Board ELMER BORGSCHATZ, the Board's Attorney GEORGE J. CROWE, and the Assistant Attorney General HAROLD J. SODERBERG, would NOT prosecute, when they were personally presented with the above facts, and told that Minn. Statutes CH. 620.48, FALSE REPRESENTATION AS TO OWNERSHIP OF LAND AND EXECUTION OF DEED THERETO, was violated, AND, these unlawful acts were performed in concert for the purpose to deprive PAUL ROSSO of the Constitutional Rights, privileges and immunities.

11. WOULD the Minn. Supreme Court be authorized to dismiss a timely Appeal, made in accordance to the GARNISHMENT STATUTE CH. 571.43(1), and the ATTACHMENT STATUTE CH. 570.01 (an interlocked series of

transactions in the N.W. Holding Co. U.D. action) LEDWEIN vs. ROSSO, WHEN, the law clearly shows, an attachment would not be allowed in an assault and battery case?

12. WOULD the Minn. Supreme Court be authorized to dismiss a timely Appeal, made in accordance to the M.R.C.P., RULE 52, and adjudicated cases, (42 MINN. 45 An Order for Judgment WITHOUT FINDINGS CANNOT STAND) (an interlocked series of transactions in the N.W. Hol ing Co. unlawful detainer action) LEDWEIN v. ROSSO, WHEN, the facts clearly show JUDGE PAUL J. JAROSCAK, did not make findings as required by the Minnesota Rules and adjudicated cases?

13. WOULD the Minn. Supreme Court be authorized to dismiss a timely Appeal, made in accordance to the FEDERAL and STATE CIVIL RIGHTS STATUTES, WHEN, the facts clearly show an INTERLOCKED SERIES OF TRANSACTIO under "color of law", to deprive PETITIONERS of rights, privileges and immunities, secured by the Constitution and laws of the United States? 42 USC 1983 28 USC 1

14. WOULD the Minn. Supreme Court be authorized to dismiss a timely Appeal, made in accordance to the SALE OF REALTY GENERALLY, WHEN, the facts clearly show, neither STATE nor FEDERAL LAW was observed? 28 USC 2001.

15. WOULD the Minn. Supreme Court be authorized to dismiss a timely Appeal, made in accordance to the SALE OF PERSONALTY GENERALLY, WHEN, the facts clearly show, neither STATE nor FEDERAL LAW was observed?

16. WOULD the Minn. Supreme Court be authorized to dismiss a timely Appeal, made in accordance to the POSTAL STATUTES, WHEN, the facts clearly show, the United States Mails were used to promote a scheme to deprive PETITIONERS of money, rents, real and personal property? U.S. v. Hughes, 195 F.Supp 795 (D.C.NY 1961).

17. WOULD the Minn. Supreme Court be authorized to dismiss a timely Appeal, made in accordance to the JUDICIAL RECORDS STATUTES, WHEN, the facts clearly show, the records were FORGED to promote a scheme to deprive PETITIONERS of money, rents, real and personal property? 18 USC 1506.

18. WOULD the Minn. Supreme Court be authorized to dismiss a timely Appeal, made in accordance to RIGHTS OF ACCUSED TO KNOW GROUND OF ARREST, CH. 611, and U.S. Amendment 14, WHEN, the facts clearly show PAUL DAN ROSSO was held in Henn. County JAIL, for ten (10) DAYS, WITHOUT a WARRANT FOR ARREST, or a COMMITMENT ORDER. (A willful failure to answer interrogatories before an employee of Plaintiff's attorney). (RULE 28.03).

82 S.Ct. 134(1962) WHERE AN ALLEGED CONTEMPT OF COURT WAS NOT OF THE KIND THAT HAD TO BE PUNISHED IMMEDIATELY TO PREVENT DEMORALIZATION OF THE COURT'S AUTHORITY, HIS CONVICTION BY A STATE COURT WITHOUT A HEARING AND AN OPPORTUNITY TO PRESENT AN AVAILABLE DEFENSE VIOLATED DUE PROCESS OF LAW.

The Court in fact and law, did NOT have jurisdiction over the person of PAUL DAN ROSSO, because execution had been returned UNSATISFIED, and the plain language of the Statute does not provide for further proceedings. M.S. CH. 550.05.

The Court ignored a timely Affidavit, together with Proof of Personal Service, OBJECTING to the proceedings.

N O T E

THE MINNESOTA SUPREME COURT HAS NOT RULED ON ANY OF THE ISSUES PRESENTED FOR AFFIRMATIVE EQUITABLE RELIEF.

NO MATERIAL FACTS ARE IN DISPUTE, BECAUSE NO ANSWER WAS MADE IN THE MINNESOTA SUPREME COUPT, AND THE ACTION WAS TIMELY REMOVED TO THE U.S. DISTRICT COURT, IN ACCORDANCE TO STATUTE.

THE FEDERAL COURT BECAME POSSESSED OF THE QUESTIONS PRESENTED IN THE CONSOLIDATED AND INTERLOCKED SERIES OF TRANSACTIONS.

Bound

II. IN U. S. DISTRICT COURT.

1. WOULD the U. S. District Court be authorized to dismiss a timely Petition, made in accordance to the REMOVAL STATUTE, W H E N, the motion to dismiss, contained only bare bones pleadings, AND, service of a summons and complaint in unlawful detainer, was NEVER made upon defendants PAUL ROSSO and PAULINA ROSSO, to vest the Municipal Criminal Court with JURISDICTION - a statutory prerequisite?

2. Would the U. S. District Court be authorized to dismiss a timely Petition, made in accordance to the CIVIL RIGHTS ACT, W H E N, the motion to dismiss, contained only bare bones pleadings, AND, the Complaint served upon MELBA P. EVANSON and GORDON EVANSON, did not state a claim as required by the UNLAWFUL DETAINER STATUTE; NO EVIDENCE was introduced at the "Criminal Trial before Municipal JUDGE BRUCE C. STONE", to show the N. W. HOLDING CO., A MINN. COPP. had the right of restitution of the premises, AND, WITHOUT Findings by the Municipal Criminal

Court, to show N. W. HOLDING CO., was entitled to restitution of the premises, as required by the unlawful detainer statute, and adjudicated cases.

3. Would the U. S. District Court be authorized to dismiss a timely Petition, made in accordance to the CIVIL CONSPIRACY STATUTE, when the motion to dismiss, contained only bare bones pleadings, and the Petition SHOWS the Complaint in Unlawful Detainer, was one of an interlocked series of transactions, used to obtain money (mortgage) from the TWIN CITY FEDERAL SAVINGS AND LOAN ASSN., Mpls., under the "pale" of court orders, judgments, sheriff levys, sheriff executions, sheriff sales, abstracts, and attorney opinion, "secured" by a "title" insured by the TITLE INSURANCE COMPANY OF MINNEAPOLIS, MINN. (The "title" referred to, legally describes the PETITIONERS' HOMESTEAD PREMISES).

4. Would the U. S. District Court be authorized to dismiss a timely Petition made in accordance to the JUDICIAL SALES STATUTE, W H E N, the

Bound

motion to dismiss contained only bare bones pleadings, AND, the "judicial sale" was not in accordance to the Minn. Constitution, and State and Federal Statutes.

5. Would the U. S. District Court be authorised to dismiss a timely Petition, made in accordance to the POSTAL STATUTES, W H E N, the motion to dismiss contained only bare bones pleadings, AND, the letters contained threats to extort money, rentals, real and personal property.

6. Would the U. S. District Court be authorised to dismiss a timely Petition made in accordance to a FEDERALLY RECOGNIZED RIGHT OF PEACEABLE POSSESSION OF THE PREMISES, W H E N, the motion to dismiss contained only bare bones pleadings, AND, the Homestead premises were INVADED, in DISTURBANCE OF THE PUBLIC PEACE, A N D, taken by FORCE, ORGANIZED VIOLENCE and TERROR, under the "color of law", together with the EXEMPT PERSONAL PROPEPTY contained therein.

7. Would the U. S. District Court be authorized to dismiss a timely Petition UNDER CRIMINAL RULE 35, to correct an illegal sentence at any time, W H E N, the motion to dismiss contained only bare bones pleadings, AND, the "conviction of unlawful detainer was without evidence or facts adduced", and not in accordance to the due process clause of the State and Federal Constitutions.

8. Would the U. S. District Court be authorized to dismiss TIMELY APPLICATIONS FOR DEFAULT JUDGMENT, for the WILFUL REFUSAL TO ANSWER INTERROGATORIES, W H E N, no facts were adduced to show the several parties were not competent or able to make answer.

9. Would the U. S. District Court be authorized to dismiss a timely MOTION UNDER RULE 60(b)(4), the judgment is void, W H E N, no response or objections were made by opposing parties, AND, no findings were made as required by the Court Rules.

10. Would the U. S. District Court be authorized to dismiss a TIMELY MOTION made in accordance

to STATUTE 28 USC 2255, a collateral attack upon a judgment of conviction by a court without jurisdiction, without evidence, without findings, W H E N, no responsive pleadings or objections were made to show the conviction of unlawful detainer was in accordance to law.

11. Would the U. S. District Court be authorized to dismiss a timely motion made in accordance to the COMMON LAW, CORIAM NOBIS, W H E N, the FACTS clearly show that the RIGHT OF POSSESSION has not terminated, AND, NO responsive pleadings or objections were made, to SHOW the conviction of unlawful detainer was in accordance to law.

12. Would the U. S. District Court be authorized to ignore and dismiss a timely motion, made in accordance to the COMMON LAW - ARREST OF JUDGMENT, W H E N, the FACTS clearly show the orders of dismissal, were not authorized by law, AND, N O RESPONSIVE PLEADINGS OR OBJECTIONS were made by opposing counsel, to SHOW the dismissals were in accordance to law.

N O T E

The U. S. District Court, upon the dismissal of the PETITION, CANNOT enter judgment of affirmance, and include therein, the supposed judgment of the State Court in a case WHERE NO RETURN HAS BEEN MADE IN THE STATE COURT SHOWING SERVICE UPON DEFENDANTS PAUL ROSSO AND PAULINA ROSSO.

NO FACTS were alleged to show unlawful detainer of the premises,

NO PROOF was adduced at the "hearing", to show unlawful detainer of the premises,

NO FINDINGS were made to show unlawful detainer of the premises.

The dated JUNE 21, 1963, O P I N I O N, by the Minnesota Supreme Court, reported at 265 MINN. 562, Northwest Holding Co., vs. Evenson et al,

> "Appeal to the Supreme Court from the Municipal Court of the City of Minneapolis in unlawful detainer proceedings lie only from the judgment of restitution...appeal dismissed",

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- - - IS IN DIRECT CONFLICT - - -

WITH STATE AND FEDERAL LAWS, A N D,

Minn. St. Ch. 566, 510 and 550.05,
M.R.C.P. RULE 1,
28 USC 2001,

THE STATE AND FEDERAL CONSTITUTION,

Minn. Const. ARTICLE 1, SEC. 1, 2, 8, 10, and 12,
U. S. Constitution, ARTICLE IV, SEC. 2 and 4,
ARTICLE VI, and
Amendments 4, 5, 7, and 14, A N D,

THE COMMON LAW,

See Common Law citations in 27 ARK. 46, and 27 ARK. 51.

B E C A U S E

CRIMINAL COURT JUDGES: BRUCE C. STONE,
LINDSAY G. ARTHUR, and
DONALD C. BAPTEAU,

DID NOT ENTER, "the judgment of restitution", as required by the Minnesota Statutes, and the Minneapolis Municipal Court Rules, Adjudicated cause and the COMMON LAW.

—— THE FACTS SHOW ——

The Deputy Clerk of Municipal Court, NOT AUTHORIZED by any Statute, or Court, Rule, WITHOUT JURISDICTION, prepared and signed "the judgment of restitution", VOID UPON ITS FACE, that did not show whether the cause of action was:

UNLAWFUL ENTRY, or UNLAWFUL DETAINER,

before the Court of Inquiry,

DID NOT CONTAIN F I N D I N G S, that defendants (EVANSONS-ROSSOS) had held over after the rental contract was terminated, by a "notice to quit", OR, had breached their contract to pay rent, OR, had made unlawful entry and held over after a 30 day Notice to quit, NECESSARY PREREQUISITES, to obtain the RIGHT OF POSSESSION, T O G E T H E R W I T H, the Judge's SIGNATURE.

THE U. S. DISTRICT COURT HAS THE DUTY TO MAKE INQUIRY INTO JURISDICTIONAL QUESTIONS FACTUALLY TO FIND THE TRUTH, WHEN FEDERAL QUESTIONS ARE RAISED, AND IF NECESSARY, THE COURT HAS THE DUTY TO ORDER AMENDMENT OF PLEADINGS TO SHOW JURISDICTION (28 US 1653) IN ORDER TO GRANT REAL, COMPLETE AND LASTING RELIEF.

Bound

THE U. S. DISTRICT COURT HAS NOT RULED ON ANY OF THE ISSUES PRESENTED FOR AFFIRMATIVE EQUITABLE RELIEF.

NO MATERIAL FACTS ARE IN DISPUTE, BECAUSE NO ANSWER WAS MADE IN EITHER THE MINNESOTA SUPREME COURT, OR, IN THE U. S. DISTRICT COURT, AND THE ACTION WAS TIMELY APPEALED TO THE U. S. COURT OF APPEALS, EIGHTH CIRCUIT, IN ACCORDANCE TO STATUTE.

293 US 52, 54; 55 Sup. Ct. 16 (1936) 125 US 18; 8 S.Ct. 741 (1888)

IT IS ESSENTIAL TO THE JURISDICTION OF THIS COURT IN REVIEWING A DECISION OF A COURT OF A STATE THAT IT MUST APPEAR AFFIRMATIVELY FROM THE RECORD, NOT ONLY THAT A FEDERAL QUESTION WAS PRESENTED FOR DECISION TO THE HIGHEST COURT OF THE STATE HAVING JURISDICTION, BUT THAT ITS DECISION OF THE FEDERAL QUESTION WAS NECESSARY TO DETERMINATION OF THE CAUSE, AND THAT IT WAS ACTUALLY DECIDED OR THAT THE JUDGMENT AS RENDERED COULD NOT HAVE BEEN GIVEN WITHOUT DECIDING IT.

III. IN EIGHTH CIRCUIT COURT OF APPEALS.

1. WOULD the U. S. Court of APPEALS be authorized to sanction such a DEPARTURE by the U.S. District Court, FROM the accepted and usual course of judicial proceedings, to IGNORE the several jurisdictional grounds to adjudicate upon the merits, and FAIL to render the necessary, complete, and lasting relief?

2. WOULD the U.S. Court of APPEALS be authorized to render a decision in DIRECT CONFLICT with a decision by the U.S. SUPREME COURT, 96 L.Ed 232, U.S. v. Hayman, and DENY PETITIONERS' timely Application for WRIT OF MANDAMUS: to require the CLERK of U.S. District Court to FILE timely COMMON LAW Pleadings, in accordance to the Court Rules, and require the Chief Judge to HEAR the matter in accordance to Statute, and his Oath of Office?

3. WOULD the U.S. Court of APPEALS be authorized to render a decision in CONFLICT with a decision by the U.S. SUPREME COURT, on the SAME QUESTION — RIGHT OF PEACEABLE POSSESSION OF THE PREMISES?

119 US 608; Aff'd. and applied 122 US 597.
Iron Mountain R.R. v. Johnson.

4. WOULD the U. S. Court of APPEALS be authorized to render a decision in CONFLICT with a decision by the U.S. SUPREME COURT, on the SAME QUESTION — "Proof of Service", — The Officer's Return (U.D. #33944), shows PAUL ROSSO "Not Found", and PAULINA ROSSO, "Not Found".

Settlemier v. Sullivan
97 Sup. Ct. 444 (1878) HELD,

1. That the court by such service, acquired no jurisdiction over the person of A., and its judgment was void.

5. WOULD the U. S. Court of APPEALS be authorized to render a decision in CONFLICT with a decision by the U. S. Supreme Court, or U. S. Court of Appeals, on the SAME QUESTION - "JURISDICTION", of the Federal Courts, WHEN THE PETITION RAISED SUBSTANTIAL FEDERAL QUESTIONS?

A. UNDER THE REMOVAL STATUTE. 28 USC 1446.

11 L. Ed 2d 440 England v. Louisiana Board of Medical Examiners et al

B. UNDER THE CIVIL RIGHTS ACT. 42 USC 1983.

373 US 668, 83 S.Ct. 1433 (1963) McNeese v. Board of Education.

C. UNDER THE JUDICIAL SALES STATUTE. 28 USC 2001.

257 U.S. 10 at 19; 42 S.Ct. 27 at 29; 66 L.Ed. 104 (1921). Yazoo & M.V.R. Co. v. Clarksdale.

D. UNDER THE FEDERAL QUESTION, AMOUNT IN CONTROVERSY. 28 USC 1331.

239 F Supp. 106 (1964) Courts Key 299(3) Spiesel v. City of New York.

E. UNDER THE FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION.

238 F. Supp. 937 at 944 (1965) Tyson v. Cazes.

F. UNDER THE DOCTRINE OF PENDENT JURISDICTION.

377 U.S. 426 (1964) J. I. Case v. Borak

G. UNDER THE MAIL FRAUD STATUTE. 18 USC 1341.

229 F 2d 861 Cert. denied 76 S.Ct. 546, reh. den. 76 S.CT 844. Palmer v. U. S.

H. UNDER CONSPIRACY TO DEFRAUD THE GOVERNMENT WITH RESPECT TO CLAIMS. 18 USC 286, 287, and 371.

263 US 15 U. S. v. Walters.

Bound

I. UNDER STATEMENTS OR ENTRIES GENERALLY. 18 USC 1001, 1002, 1005, 1006, 1008, 1018, and 1021.

248 F 2d 439 (CA Mo. 1957) Ebeling v. U. S.

J. UNDER THEFT OR ALTERATION OF RECORD OR PROCESS... 18 USC 1506

3 FRD 289 U.S. ex rel Coats v. St. Louis Clay Products.

6. WOULD the Court of APPEALS be authorized to render a decision in CONFLICT with a decision by the SAME Court of Appeals, on the SAME QUESTION — LANDLORD AND TENANT KEY 63(3), 68,

RIGHT OF POSSESSION OF THE PREMISES FROM MERE TENANTS WHO HAVE BREACHED THEIR RENTAL AGREEMENT, AND ATTORNED TO A STRANGER,

AND,

RIGHT OF POSSESSION OF THE PREMISES FROM MERE TRESPASSERS, AFTER ONE MONTH'S NOTICE TO QUIT?

204 F 2d 238 CA 8, Affirmed 98 F.S. 730(1953). Kimble v. Willey.

6. WOULD the U.S. Court of APPEALS be authorized to render a decision in CONFLICT with a decision by the SAME COURT, on the SAME QUESTION,

"JUDGMENT KEY 828 (3.20)

FEDERAL DISTRICT COURT WAS NEITHER REQUIRED NOR ENTITLED TO GIVE FULL FAITH AND CREDIT TO STATE COURT DECREE IF IT WAS CONSTITUTIONALLY VOID," 328 F 2d 296 (1964 CA 8) Dickie v. Sewer Improvement District.

7. WOULD the U.S. Court of APPEALS be authorized to render a decision in CONFLICT with a decision by the SAME COURT, on the SAME QUESTION — "parties given thirty days to amend jurisdictional allegations; if not amended case to be remanded to district court with directions that it be dismissed for want of jurisdiction"? 228 F 2d 699 (CA 8) Kern v. Standard Oil Company.

8. WOULD the U.S. Court of APPEALS be authorized to render a decision in CONFLICT with a decision of the Fifth Circuit Court of Appeals, on the SAME QUESTION —

"....the amount in controversy exceeds the statutory amount and is not traversed, such allegation is deemed sufficient to confer jurisdiction unless it appears to a legal certainty that the other allegations of the complaint so qualify or distract from it that

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it cannot fairly be said that jurisdiction appears on the face of the complaint".
238 F 2d 689 (CA 5) Hayward v. Public Housing Adm.
Also see: 303 US 283, 289; 58 S.CT. 586;
62 L.Ed. 843 St. Paul Indemnity v.
Red Cab Co.

9. WOULD the U.S. Court of APPEALS be authorized to render a decision in CONFLICT with a decision by the Second Court of Appeals, on the SAME QUESTION, FEDERAL CIVIL PROCEDURE KEY 347 (2), 351½.

"RULES OF CIVIL PROCEDURE REQUIRE THAT PLEADINGS BE CONSTRUED FAVORABLY. THE COURT EVEN BEING OBLIGATED TO STRETCH AND PICK TO FIND ANY CONCEIVABLE CLAIM WHICH MAY HAVE BEEN ALLEGED".

139 F. 2d 774 (1944 CA 2). Dioguardi v. Durning, Collector of Customs Port of N.Y.

10. WOULD the U.S. Court of APPEALS be authorized to render a decision in CONFLICT with a decision by the U. S. SUPREME COURT, on the SAME QUESTION —

"FEDERAL CIVIL PROCEDURE KEY 1773, COMPLAINT SHOULD NOT BE DISMISSED FOR FAILURE TO STATE A CLAIM UNLESS IT APPEARS BEYOND DOUBT THAT PLAINTIFF, IN SUPPORT OF HIS CLAIM, CAN PROVE NO SET OF FACTS WHICH WOULD ENTITLE HIM TO RELIEF. 2 L.Ed 2d 80 (1957) Conley v. Gibson.

11. WOULD the U.S. Court of APPEALS be authorized to render a decision in CONFLICT with a decision by the U.S. SUPREME COURT, on the SAME QUESTION — "CONSTITUTIONAL LAW SEC. 314, STATE ACTION FOR A PARTICULAR CHARACTER". 10 L.Ed 2d 323 (1963) Peterson v. Greenville

1. PRIVATE CONDUCT ABRIDGING INDIVIDUAL RIGHTS DOES NO VIOLENCE TO THE EQUAL PROTECTION CLAUSE UNLESS TO SOME SIGNIFICANT EXTENT THE STATE IN ANY OF ITS MANIFESTATIONS HAS BEEN FOUND TO HAVE BECOME INVOLVED IN IT.

12. WOULD the U.S. Court of APPEALS be authorized to render a decision in CONFLICT with a decision by the Seventh Circuit Court of Appeals, on the SAME QUESTION — "...failure to make findings with respect to plaintiff's complaint, REQUIRED reversal as to judgment of dismissal..." WHEN NO FINDINGS were made that the Court did not have VENUE jurisdiction, NOR, were findings made that the Court did not have ORIGINAL jurisdiction by the Removal Statute, NOR, did the ORDER OF DISMISSAL find that said Petition did not state any claim in which any

relief could be granted against the Defendant, NOR, did the Court remand the case before final judgment as improvidently and without jurisdiction, NOR, did the Court affirm the judgment of the State Court, and assess costs, together with the State Costs?

313 F. 2d 864 (CA Ill. 1963) Cert. denied 84 S.Ct. 59 Harris Truck Lines v. Cherry Meat Packers.

13. The U. S. Court of APPEALS, cited a part of the Minnesota Supreme Court OPINION, as a VALID OPINION.

> "Nevertheless, by levying execution and securing a decree of registration, William Holmes has obtained real estate worth approximately $35,000 to satisfy claims amounting to less than one-fourth of that amount."

— NOTE —

A DATED JANUARY 3, 1967 JUDGMENT SEARCH REVEALS :

The CLAIMS OF WILLIAM HOLMES ARE NOT YET SATISFIED.

SEE: DATED JANUARY 3, 1967 CERTIFICATE ON JUDGMENT LIEN DOCKETS, PREPARED BY TITLE INSURANCE COMPANY OF MINNESOTA, ON PAGE 35.

SEE: DATED JUNE 24, 1958 ORDER No. 533990, Judge PAUL S. CARROLL, ON PAGE 36.

When Appellants (PETITIONERS here), were in the Minn. Supreme Court seeking a REHEARING OF THE CONSOLIDATED CASES ON THE MERITS, PAUL DAN ROSSO, pointed out to Chief Judge OSCAR KNUTSON, that WILLIAM HOLMES' CLAIMS were NOT YET SATISFIED, as his Per Curiam OPINION, stated.

Chief Judge KNUTSON remained silent.

PAUL DAN ROSSO then asked Chief Judge KNUTSON, WOULD THIS MEAN, that William HOLMES will now have a "Land Registration Proceeding", describing the property at 208 EAST HENNEPIN AVENUE, Minneapolis, and THEN TAKE POSSESSION, as was done of OUR HOMESTEAD

CHIEF JUDGE OSCAR KNUTSON remained SILENT.

W O U L D, the U.S. Court of APPEALS be authorised to render a decision in DIRECT CONFLICT with the FACT that the JUDGMENT LIEN DOCKET clearly SHOWS the CLAIMS of WILLIAM HOLMES are NOT YET SATISFIED, A N D, W O U L D, the U.S. Court of APPEALS WHOLEHEARTEDLY S U P P O R T WILLIAM HOLMES when, ON OR BEFORE FEBRUARY 14, 1968, OR, ON OR BEFORE JUNE 11, 1969, Land Registration Proceedings, describing the property at 208 E. HENNEPIN AVE., Minneapolis, are instituted t "SATISFY MANIFESTLY VALID JUDGMENTS" ?

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Title Insurance Company of Minnesota
Minneapolis 1, Minnesota

CERTIFICATE ON JUDGMENT LIEN DOCKETS

THIS CERTIFIES that we have searched and examined the Judgment Lien Dockets in the following named Courts:

District Court, Fourth Judicial District, Hennepin County, Minn.

United States District Court, District of Minnesota, Fourth Division.

We find no unsatisfied judgments appearing therein against the names hereon, between the dates set opposite the respective names, except as shown hereon.

(Note: Where any name appears hereon with a middle initial, no search is made as to any names having middle initials different from that shown hereon.)

NAMES	DATES
Dan Rosso	Jan. 2, 1957 -Jan.3, 1967, 7AM
Paul Dan Rosso	Jan. 2, 1957 Jan.3, 1967, 7AM
Paulina M. Rosso	Jan. 2, 1957 Jan.3, 1967, 7AM
Melba P. Evanson	Jan. 2, 1957 Jan.3, 1967, 7AM
Mrs. Gordon L. Evanson	Jan. 2, 1957 Jan.3, 1967, 7AM
Gordon L. Evanson	Jan. 2, 1957 Jan.3, 1967, 7AM

—Except as follows: —

—District Court, Fourth Judicial District—

William Holmes vs Paul Rosso 2326 -Central Ave.N.E.	Judgment $1,280.00 Dated Feb. 14, 1958 Docketed Feb. 14, 1958 Case No. 533990 McNulty & Cox, Attnys.
William Holmes vs Paul Rosso 2326 -Central Ave.N.E.	Judgment $3,049.75 Dated June 11, 1959 Docketed June 11, 1959 Case No. 533990 Charles A. Cox, Atty.

(Partially satisfied in the sum of $2,489.65 on October 16, 1959)

Dated at Minneapolis, this 3rd day of January 1967
Fee $6.00 TITLE INSURANCE COMPANY OF MINNESOTA
By /s/ L.M. Kipke Asst. Secretary

T IS POOR

STATE OF MINNESOTA — DISTRICT COURT
COUNTY OF HENNEPIN — FOURTH JUDICIAL DISTRICT

William Holmes,
Plaintiff,

vs. No. 533990

Paul Rosso, ORDER
Defendant.

The above entitled cause, being on the Special Term Calendar of this Court, came on for hearing before the undersigned on the 24th day of June 1958, a motion by the plaintiff for summary judgment; Plaintiff was represented by McNulty & Cox by Charles A. Cox, Esq., and defendant was represented by Edward P. Dietrich, Esq.

After hearing the arguments of counsel and being fully advised in the matter, it is

ORDERED that said motion be and the same hereby is in all things denied.

Stay 10 days
Dated June 24 1958.

BY THE COURT:

s/ Paul S. Carroll
Judge of the District Court

MEMORANDUM

As in all these cases there is a great deal of merit to the plaintiff's contention that he's entitle to a summary judgment, but since the Sauter vs Sauter case, 70 NW 2d 353 there has been a succession of reversals where judges have granted summary judgment. It is better for the parties to get their cases tried than to involve themselves in the extra expense of futile proceedings.

NOTE: This ORDER has not been appealed from, or set aside or vacated. SEE: 18 USC 1506.

MRCP. RULE 56.04 "If,...judgment is not rendered upon the whole case...the court at the hearing of the motion,...shall thereupon make an order...directing such further proceedings in the action as are just."

JUDICIAL NOTICE: The Judgment "ORDERED that said motion be and the same hereby is in all things denied."

The COURT DID NOT make an order directing such further proceedings. The dated JUNE 24, 1958 ORDER was a FINAL ORDER. NO APPEAL WAS TAKEN.

14. WOULD the U.S. Court of APPEALS be authorized to render an ORDER, dated MARCH 2, 1966, which states: "...It is further ordered that appellants may, notwithstanding the provisions of our Rules regarding the printing of briefs, file five typewritten copies of their brief with this Court and serve one additional typewritten copy of their brief on counsel for appellee."

IT SHOULD BE NOTED: ATTORNEY ARNOLD I. FEINBERG, signed the Complaint in Unlawful Detainer, and the attached AFFIDAVIT; appeared on Hearing Day, 26 SEPTEMBER 1961, in Mpls. Criminal Court; and CLAIMED the right of possession of Homestead Property. ATTNY. FEINBERG, representing N.W. HOLDING CO., the TORRENS TITLE OWNER, appeared on Hearing Day, 21 NOV. 1961, in Mpls. Criminal Court, in EVANSON-LANDLORD vs. MADY, TENANT, WITHOUT a timely application to Intervene; WITHOUT an Answer; over the OBJECTION of MELBA P. EVANSON; and obtained DISMISSAL, WITHOUT A HEARING, from Judge DONALD T.BARBEAU.

IT SHOULD ALSO BE NOTED:

ATTORNEY ARNOLD I. FEINBERG, appeared in the Minnesota Supreme Court APPLICATION FOR EXTRAORDINARY RELIEF, Case No. 38634, a PETITION FOR SPECIAL RELIEF, Hearing Day DECEMBER 7, 1961; made RESPONSE, accompanied by an AFFIDAVIT, and obtained DISMISSAL of the Application, WITHOUT A HEARING BY THE MINNESOTA SUPREME COURT.

ATTORNEY ARNOLD I. FEINBERG, appeared in the Minnesota Supreme Court APPEAL, and made a MOTION FOR DISMISSAL. This motion was denied.

NO ANSWER WAS MADE BY N. W. HOLDING COMPANY.

On Hearing Day, DECEMBER 6, 1962, NO PRINCIPAL DEFENDANTS APPEARED TO REPRESENT A N Y OF THE PARTIES IN THE CONSOLIDATED CASES.

ATTORNEY ARNOLD I. FEINBERG, together with several Attorneys, appeared in the Minnesota Supreme Court, on Hearing Day, DECEMBER 6, 1962, and ORALLY ALLEGED for the F I R S T TIME, that PAUL DAN ROSSO did NOT live at the HOMESTEAD. Justice JAMES OTIS then asked PAUL ROSSO if he (Rosso)

lived at the 2326 CENTRAL AVENUE address, and PAUL ROSSO answered, "Since 1919, continuously and uninterrupted".

Attorneys MAURICE GROSSMAN, GEORGE M. KODADEK, and FRANK M. FUDALI, all declined to make oral arguments in Supreme Court, after Chief Justice OSCAR R. KNUTSON asked them, "Do any of you have anything to say for yourselves?"

265 MINN. 562, 565 N.W. Holding Co., v. Evanson et al. "THE PARTIES WERE PHYSICALLY EVICTED ON NOVEMBER 30, 1961. THEY HAVE SUBSEQUENTLY INSTITUTED UNSUCCESSFULLY NUMEROUS UNLAWFUL DETAINER PROCEEDINGS ON THEIR OWN BEHALF AGAINST TENANTS IN POSSESSION."

N O T E :

THE MINNESOTA SUPREME COURT DID TAKE JUDICIAL NOTICE OF THE FACTS - POSSESSION OF THE HOMESTEAD PREMISES WAS OBTAINED BY FORCE, A N D,

THE CONSOLIDATED U. D. CASES INSTITUTED BY THE HOMESTEAD-LANDLORD AGAINST TENANTS IN POSSESSION UNDER THE HOMESTEAD-LANDLORD'S TITLE.

ATTORNEY ARNOLD I. FEINBERG, appeared in the U. S. DISTRICT COURT OF MINNESOTA, representing N. W. HOLDING COMPANY, and made MOTION FOR DISMISSAL, accompanied by an AFFIDAVIT, and on Hearing Day, JANUARY 13, 1964, argued for DISMISSAL.

NO PRINCIPAL DEFENDANTS APPEARED TO REPRESENT A N Y OF THE PARTIES IN THE CONSOLIDATED CASES.

Dismissal was granted, EVEN THOUGH, a timely Application for SUMMARY JUDGMENT was before the Court on HEARING DAY, against PRESIDENT of N. W. HOLDING COMPANY, MR. ISRAEL MIRVISS, FOR THE FAILURE TO ANSWER INTERROGATORIES, AND,
A timely Application for SUMMARY JUDGMENT was before the Court on HEARING DAY, against the NORTHWEST HOLDING COMPANY, THEIR ATTORNEYS AND AGENTS, THE MOHAWK TRANSFER AND STORAGE COMPANY, THE MINNEAPOLIS POLICE, TOGETHER WITH OTHERS.

The FILES of the U. S. DISTRICT COURT, DO NOT contain an Application by ATTORNEY ARNOLD I. FEINBERG, to WITHDRAW AS COUNSEL for N. W. HOLDING COMPANY, A Minn. CORPORATION.

The FILES of the U.S. Court of APPEALS, DO NOT contain an APPEARANCE FORM for APPELLEE, NORTHWEST HOLDING CO., NOR, an Application by Attorney ARNOLD I. FEINBERG, to WITHDRAW AS COUNSEL FOR APPELLE N. W. HOLDING CO., A MINN. CORPORATION.

QUESTION : MAY ATTORNEY ARNOLD I. FEINBERG, by his OMISSION or NEGLECT, or REFUSAL, or simple FAILURE TO FILE, an "APPEARANCE FORM", in the U.S. Court of APPEALS, W I T H D R A W as Counsel for Appellee, N. W. HOLDING COMPANY ?

84 S. CT. 40 (1963) Retail Clerks International Assoc., Local 1625, AFL-CIO, et al v. Schermerhorn et al.

THE MOTION OF CLAUDE PEPPER FOR LEAVE TO WITHDRAW HIS APPEARANCE AS COUNSEL FOR THE PETITIONERS IS GRANTED.

QUESTION : MAY the U.S. Court of APPEALS then, WITHOUT a signed APPEARANCE FORM for Appellee, N. W. HOLDING COMPANY, WITHOUT NOTICE to the PETITIONERS, I N S E R T the name of "JOE WALTERS" Minneapolis Minn., for APPELLEE, in the FEDERAL REPORTS ?

QUESTION : DID the U.S. Court of APPEALS, APPOINT "JOE WALTERS", to represent Appellee, N. W. Holding Company, WITHOUT A WRITTEN ORDER, AND WITHOUT NOTICE TO PETITIONERS ?

QUESTION : WHAT SERVICES did "JOE WALTERS" perform for Appellee, N. W. Holding Co., and the Interlocked and CONSOLIDATED CASES, in the U. S. Court of APPEALS ? AND ON WHAT DATE DID THESE SERVICES BEGIN ?

15. WOULD the U. S. Court of APPEALS, C O R R E C T E R R O R S of the U. S. DISTRICT COURT, reachable by a timely APPEAL, that clearly shows :

84 S. CT. 21 (1963) Bartone v. U. S.

"WHERE STATE PROCEDURAL SNARLS OR OBSTACLES PRECLUDE AN EFFECTIVE STATE REMEDY AGAINST UNCONSTITUTIONAL CONVICTIONS, FEDERAL COURTS HAVE NO OTHER CHOICE BUT TO GRANT RELIEF IN THE COLLATERAL PROCEEDING".

216 F 2d 743 (CA 3)(1954) U.S. v. McCorkle.

EXAMINATION BY FEDERAL DISTRICT COURT OF "OPINION" OF STATE SUPREME COURT AFFIRMING CONVICTION FOR MURDER DID NOT CONSTITUTE AN EXAMINATION OF THE "RECORD".

82 S.CT. 917, 923 Coppedge v. United States

"WHEN SOCIETY ACTS TO DEPRIVE ONE OF ITS MEMBERS OF HIS LIFE, LIBERTY OR PROPERTY, IT TAKES ITS MOST AWESOME STEPS. NO GENERAL RESPECT FOR, NOR ADHERENCE TO, THE LAW AS A WHOLE CAN WELL BE EXPECTED WITHOUT JUDICIAL RECOGNITION OF THE PARAMOUNT NEED FOR PROMPT, EMINENTLY FAIR AND SOBER CRIMINAL LAW PROCEDURES. THE METHODS WE EMPLOY IN THE ENFORCEMENT OF OUR CRIMINAL LAW HAVE APTLY BEEN CALLED THE MEASURES BY WHICH THE QUALITY OF OUR CIVILIZATION MAY BE JUDGED."

ly Bound

The dated SEPTEMBER 26, 1961, ORDER by Judge BRUCE C. STONE, "Stay 5 days", in the Mpls. Criminal Court, is in DIRECT CONFLICT with STATE and FEDERAL LAWS, the State and Federal Constitutions, and the COMMON LAW —

—— W H E N ——

THE SHERIFF'S RETURN SHOWS PAUL ROSSO "NOT FOUND; and PAULINA ROSSO "NOT FOUND";

THE SUMMONS IN UNLAWFUL DETAINER, SERVED UPON GORDON EVANSON and MELBA P. EVANSON, WAS NOT SIGNED BY A JUDGE, AS REQUIRED BY STATUTE 566.05,

THE HOMESTEAD OWNERS WERE IN QUIET, EXCLUSIVE, NOTORIOUS, POSSESSION, CONTINUOUSLY AND UNINTERRUPTEDLY FOR FORTY-TWO (42) YEARS, M.S. CH. 566.04,

THE COMPLAINT IN U. D., DID NOT STATE A CLAIM IN ACCORDANCE TO THE UNLAWFUL DETAINER STATUTE.

THE HEARING BEFORE THE COURT OF INQUIRY, DID NOT ADDUCE ANY EVIDENCE THAT N.W. HOLDING CO., HAD THE RIGHT OF POSSESSION,

THE COURT DID NOT MAKE FINDINGS OF FACT AND CONCLUSIONS OF LAW, THAT N. W. HOLDING CO., HAD THE RIGHT OF POSSESSION, FROM THE HOMESTEAD OCCUPANTS,

THE COURT DID NOT MAKE A WRIT OF RESTITUTION, SHOWING WHETHER THE ACTION WAS: UNLAWFUL DETAINER, OR WHETHER THE ACTION WAS: UNLAWFUL ENTRY, BEFORE THE COURT OF INQUIRY, AND WHETHER THE DEFENDANTS BREACHED THEIR CONTRACT TO PAY RENT, OR HELD OVER AFTER NOTICE TO QUIT, OR HAD ILLEGALLY ENTERED THE PREMISES OF ANOTHER, AND SIGNED BY THE JUDGE, AS REQUIRED BY STATUTE 566.

28 MINN. 461 (1881) HENNESSEY v. PEDERSON

40 CAL. RPTR. 518 (1964) HAUSE JR. V. LAMIE ET AL

97 U.S. 444 (1878) SETTLEMIER V. SULLIVAN

119 U.S. 608 IRON MOUNTAIN R.R. v. Johnson

301 F 2d 639 (CA 9)

92 N.W. 2d 569 (Iowa 1958) HALVERSON v. HAGEMAN

145 MINN. 104 BEIGLER v. CHAMBERLIN (1920)

On Rehearing, Judge LINDSAY ARTHUR's "court", was equally DEFIANT against PETITIONERS' RIGHT OF POSSESSION of the HOMESTEAD.

The Court did NOT make a writ of restitution as required by Statute,

— INSTEAD —

A Deputy Clerk of Court, not authorized by any Statute or Court Rule, prepared a Writ of Restitution, VOID UPON ITS FACE, that did not state the cause of action before the Court of Inquiry; did not contain findings, that the N. W. Holding Co., had the Right of Possession FROM the HOMESTEAD OCCUPANTS, and DID NOT contain a Judge's signature, as required by Statute.

WITHOUT WARNING, NOTICE, OR PROBABLE CAUSE, AND IN CONTEMPT OF SCHEDULED COURT HEARINGS, THE N. W. HOLDING COMPANY, THEIR ATTORNEYS AND AGENTS, THE MOHAWK TRANSFER AND STORAGE COMPANY, MINNEAPOLIS, THE MINNEAPOLIS POLICE, TOGETHER WITH OTHERS, UNDER COLOR OF LAW, DID SMASH OPEN THE HOMESTEAD PROPERTY DOOR, WITH A SLEDGEHAMMER, WHILE OCCUPANT, MELBA P. EVANSON, VAINLY TRIED TO HOLD THE DOOR SHUT.

Judge JOHN A. WEEKS signed a Restraining Order, and the Exempt Personal Possessions were returned to the HOMESTEAD.

AND AGAIN, on 30 NOVEMBER 1961, WITHOUT WARNING, NOTICE, OR PROBABLE CAUSE, IN CONTEMPT OF JUDGE WEEK'S RESTRAINING ORDER, A N D, IN CONTEMPT OF SCHEDULED COURT HEARING IN MPLS. MUNICIPAL COURT, A N D, A SCHEDULED COURT HEARING IN MINNESOTA SUPREME COURT, UNDER COLOR OF LAW, THE NORTHWEST HOLDING COMPANY, A MINNESOTA CORPORATION, THEIR ATTORNEYS AND AGENTS, THE MOHAWK TRANSFER AND STORAGE CO., THE MINNEAPOLIS POLICE, TOGETHER WITH OTHERS,

DID, BY FORCE, VIOLENCE AND TERROR,

WITH A FORCE OF 20 to 30 MEN, SEIZE A L L THE LIFE LONG PERSONAL EXEMPT POSSESSIONS OF THE HOMESTEAD PROPERTY OWNERS, GORDON EVANSON AND FAMILY; SEIZE THE HOMESTEAD PROPERTY, AND CONTINUES TO HOLD THE SAME.

<u>265 MINN. 562, 568</u> N. W. Holding vs. Evanson

"On August 16, 1961, Holmes conveyed his interest in the property to plaintiff, Northwest Holding Co., which mortgaged it for $28,000 to Twin City Federal Savings and Loan Association on August 18, 1961. (THERE HAVE BEEN TWO SUBSEQUENT CONVEYANCES.)"

N O T E :

The TWO SUBSEQUENT CONVEYANCES

the Minnesota Supreme Court refers to are :

FROM:

NORTHWEST HOLDING COMPANY, A MINN. CORPORATION,

TO:

ATTORNEY FRANK M. FUDALI, and his son, ATTORNEY RICHARD FUDALI, whose law office has been located within one city block of the HOMESTEAD PROPERTY for about 20 YEARS; Attorney FRANK M. FUDALI had been a customer of Barber, DAN ROSSO, whose BARBERSHOP was located in a portion of the HOMESTEAD PROPERTY.

ATTORNEY FRANK M. FUDALI, is the SAME ATTORNEY, that represented TENANT, MRS. FLORENCE MADY, in the Homestead-Landlord's UNLAWFUL DETAINER ACTION, on 21 NOVEMBER 1961, AND AGAIN, on 1 JUNE 1962. Attny. FUDALI represented Plaintiff, FIDELITY SEC. & INV. CO. vs. Melba P.Evanson & Paul Dan Rosso, on 20 AUG.1962, a CONSOLIDATED CASE.

FROM:

ATTORNEY FRANK M. FUDALI AND ATTORNEY RICHARD FUDALI

TO:

AN ADJOINING NEIGHBOR OF THE HOMESTEAD, THE FIDELITY SECURITIES & INVESTMENT CO., A MINN. CORP.

MP. AND MRS. DAN ROSSO & FAMILY, had been a customer of the FIDELITY BANK, an ADJOINING NEIGHBOR OF THE HOMESTEAD PROPERTY, AND OWNED BY FIDELITY SECURITIES & INVESTMENT COMPANY, for about 40 YEARS.

MR. AND MRS. DAN ROSSO & FAMILY, knew some of the same Officers, Directors and Stockholders of the FIDELITY BANK for 40 YEARS.

The SAME Officers, Directors and Stockholders hold similar positions in FIDELITY SECURITIES AND INVESTMENT COMPANY, A MINN. CORP.

<u>265 MINN. 562, 570</u> N.W. Holding Co. v. Evanson

Having failed to pursue any of the remedies which might have been available to them, and the rights of a mortgagee and purchasers apparently without notice having now intervened, it is obvious that the decree of registration must be given effect in the proceedings which are before us for review.

N O T E :

IN MINNESOTA SUPREME COURT -

THE COURT OVERLOOKED AND IGNORED THE PURPOSE OF THE CONSTITUTIONAL PROVISION, ARTICLE 1, SEC. 12, WHICH MAKES THE HOMESTEAD RIGHT ABSOLUTE, AND IS ENACTED BY STATUTE 510, HOMESTEAD EXEMPTION, AND DECLARED ABSOLUTE BY THE MINN. SUPREME COURT IN NUMEROUS COURT DECISIONS.

N O T E

THE MINNESOTA SUPREME COURT OVERLOOKED AND IGNORED

THE LAW

THE TORRENS SYSTEM OF LAND REGISTRATION.

In NONE of the States that have adopted the Torrens System, may title be acquired by prescription or by adverse possession.

Minn. St. CH. 508.02 "....No title to registered land in derogation of that of the registered owner shall be acquired by prescription or by adverse possession."

THE "DECREE IN REGISTRATION" IS VOID UPON ITS FACE,

— BECAUSE —

THE HOMESTEAD PROPERTY IS PROPERLY REGISTERED BY WARRENTY DEED IN THE HENNEPIN COUNTY REGISTER OF DEEDS, AND ASSESSED BY THE CITY ASSESSOR AS HOMESTEAD PROPERTY, AND TAXED BY THE COUNTY AT THE HOMESTEAD RATE, AND OCCUPIED BY THE HOMESTEAD OWNER, CONTINUOUSLY, QUIETLY, UNINTERRUPTED, AND NOTORIOUSLY FOR 42 YEARS.

THE MINNESOTA SUPREME COURT OVERLOOKED AND IGNORED

THE LAW ON :

VOID JUDGMENTS AND VOID DEEDS

A N D

THE POSSESSION OF THE LANDLORD, and the well established rule that a tenant in possession under his landlord's title, cannot dispute his landlord's title; A N D,

THE FOURTH AMENDMENT TO THE U. S. CONSTITUTION protection against unreasonable searches and seizure;

A N D,

THE MALICIOUS USE AND ABUSE OF LEGAL PROCESS;

A N D,

THE PURPOSE OF THE STATE AND FEDERAL CIVIL RIGHTS STATUTES;

A N D,

THE PURPOSE OF THE STATE AND FEDERAL CIVIL CONSPIRACY STATUTES;

A N D,

THE PURPOSE OF U. S. CONSTITUTION, ARTICLE IV, SECTION 4 AND AMENDMENT 14, IN STATE ACTIONS,

A N D

THE FEDERAL JUDICIAL SALES STATUTES.

ound

— IT SHOULD BE NOTED —

AT THE COMMENCEMENT OF THE SPURIOUS ACTIONS IN UNLAWFUL DETAINER BROUGHT BY N. W. HOLDING COMPANY, APPELLANTS' HOMESTEAD PROPERTY had NO liens or indebtedness of any kind, such as (1) unpaid taxes, (2) unpaid special assessments, (3) unpaid mortgages, (4) unpaid workman's liens, or (5) unpaid material-man's liens.

The HOMESTEAD PROPERTY had NOT been conveyed, mortgaged, or transferred by APPELLANTS, to ANYONE.

The HOMESTEAD PROPERTY had NOT been condemned, or taken by eminent domain, or had been subject to any such proceedings whatsoever.

The APPELLANTS had NO unpaid debts of ANY kind, nor were there proceedings of ANY kind pending in ANY court.

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JURISDICTION OF THE SUBJECT MATTER IS TO BE TESTED BY THE AUTHORIZED EXTENT OF THE POWERS OF THE COURT IN RESPECT TO THE CAUSE OF ACTION BEFORE IT.

A COURT WITHOUT JURISDICTION OF THE SUBJECT MATTER OF THE ACTION CANNOT ACQUIRE JURISDICTION BY ERRONEOUS DECISION THAT IT HAS JURISDICTION.

A JUDGMENT RENDERED BY A COURT WITHOUT JURISDICTION OF THE SUBJECT MATTER OF THE ACTION IS VOID, AND THE DEFENDANT MAY RAISE AND REITERATE THE OBJECTION OF WANT OF JURISDICTION AT ANY STAGE.

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STATEMENT THE FACTS

PETITIONERS' TITLE SINCE 1919.

Records of the Register of Deeds, Hennepin County, Minnesota, reflect since the year 1919, the title recorded in the same family continuous and uninterrupted, of the premises described as LOT 4, BLOCK 9, Wilson's Rearrangement of Blocks 2, 3, 6, 7, 9, 10, 11, 14, 15, 19, 20, 21, 24, 26, 29, 31, 33, 35, 37, 39, and 41 of East Side Addition to City of Minneapolis, commonly known as 2324-2326 Central Avenue Northeast, Minneapolis, Minnesota.

The above described premises have been occupied and maintained continuously and uninterruptedly, by the same family as HOMESTEAD, since the year 1919, with taxes assessed to, and paid by, the same family since the year 1919.

HOMESTEAD OCCUPANTS SINCE THE YEAR 1919 :

2326 Central Ave. APARTMENT — MRS. PAULINA ROSSO (Wife of DAN ROSSO, deceased).

PAUL DAN ROSSO (Son of Dan and Paulina Rosso).

(DAN ROSSO OPERATED A BARBERSHOP FOR 35 YEARS IN THE HOMESTEAD PREMISES, PRIOR TO HIS RETIREMENT).

HOMESTEAD OCCUPANTS:

2324 Central Ave. APARTMENT — Mrs. GORDON EVANSON (MELBA - Daughter of Dan and Paulina Rosso).

Mr. GORDON L. EVANSON
DAVID EVANSON - (Son of Gordon and Melba Evanson)
DIANA EVANSON - (Daughter of Gordon and Melba Evanson).

The HOMESTEAD PROPERTY had NO LIENS or indebtedness of any kind, such as, (1) unpaid taxes, (2) unpaid special assessments, (3) unpaid mortgages, (4) unpaid workman's liens, or (5) unpaid materialman's liens.

The HOMESTEAD PROPERTY had not been conveyed, mortgaged, or transferred to anyone.

The HOMESTEAD PROPERTY had not been condemned, or taken by eminent domain, or had been subject to any such proceedings whatsoever.

The HOMESTEAD OCCUPANTS had no unpaid debts of any kind, nor were there proceedings of any kind pending in any Court.

The following letter was received :

"MINENKO, FEINBERG, MIRVISS, MEYERS & SCHUMACHER

ATTORNEYS AT LAW
TITLE INSURANCE BUILDING
400 SECOND AVENUE, SOUTH
MINNEAPOLIS 1, MINNESOTA

EUGENE MINENKO
ARNOLD I. FEINBERG
ISRAEL MIRVISS
RICHARD MEYERS
JAMES J. SCHUMACHER

FEDERAL 9-0431
SUBURBAN OFFICES:
BLOOMINGTON
NEW BRIGHTON

August 18, 1961

Gordon Evanson and Melba P. Evanson
2326 Central Avenue N. E.
Minneapolis, Minnesota

Dear Gordon Evanson and Melba P. Evanson:

This is to advise that I am the attorney for the Northwest Holding Company which has purchased the property at 2326 Central Avenue NE. and that you are hereby notified to vacate the premises that you are now occupying at this address within seven days from receipt of this letter.

If you have not vacated the premises by that time, I shall commence whatever legal proceedings are necessary to secure possession of the premises for my client.

Very truly yours,

s/ I. Mirviss
I. Mirviss

CERTIFIED MAIL,
RETURN RECEIPT REQUESTED."

The following answer was made :

"August 21, 1961

"Mr. Israel Mirviss
400 Second Ave. So.
Minneapolis 1, Minnesota

"Dear Sir:

Regarding your letter of August 18, 1961, notifying us to vacate our premises.

We are the absolute owners of the property located at 2324-26 Central Ave. N.E., and we have not sold this property, nor do we intend to do so.

In regard to the Northwest Holding Company directing you to evict us, this is clearly erroneous, because we, the undersigned, are the owners.

Please advise the Northwest Holding Company at once, that we are the owners of the property which your letter refers to.

Yours truly,

/s/ Melba P. Evanson
Melba P. Evanson

/s/ Gordon Evanson
Gordon Evanson OWNERS
2324 Central Ave. N.E.
Minneapolis 18, Minnesota"

CERTIFIED MAIL
541200
RETURN RECEIPT
REQUESTED.
Rec'd : 8-22-61
/s/ Israel Mirviss

NO ANSWER WAS MADE, TO LETTER DATED August 21, 1961, from Gordon and Melba Evanson, to MR. ISRAEL MIRVISS.

INSTEAD, THE FOLLOWING COMPLAINT WAS SERVED UPON GORDON EVANSON AND MELBA P. EVANSON :

"COMPLAINT IN UNLAWFUL DETAINER

"Arnold I. Feinberg, being first duly sworn on oath complains and states to the Court:

That on or about August 16, 1961, the plaintiff purchased and received a quit claim deed from William Holmes which deed was recorded on August 22, 1961 in the Registrar of Titles, Hennepin County, Minnesota. William Holmes' Torrens certificate was No. 33326 and the new certificate to Northwest Holding Company is being issued by the Registrar of Titles as Certificate No. 333703. In addition thereto on August 18, 1961, Northwest Holding Company did mortgage to Twin City Federal which mortgage was recorded on August 22, 1961. Said property being legally described as Lot 4, Block 9, Wilson's Re-arrangement of Blocks 2, 3, 6, 7, 9, 10, 11, 14, 15, 19, 20, 21, 24, 26, 29, 31, 33, 35, 37, 39 and 41 of East Side Addition to City of Minneapolis, commonly known as 2326 Central Avenue N.E., Minneapolis, Minnesota.

"It was the order and decree of registration in proceeding No. 14838, District Court, Fourth Judicial District that William Holmes have the estate in fee simple in said property and that Gordon Evanson and Melba P. Evanson occupied said premises at sufferance.

"That said defendants have failed and refused to remove themselves from the premises and are still in possession of the premises and unlawfully detain the possession thereof from the plaintiff.

WHEREFORE, complainant demands judgment against the defendants for the restitution of said premises and the costs and disbursements herein. /s/ Arnold I. Feinberg
ARNOLD I. FEINBERG"

STATE OF MINNESOTA
County of Hennepin. } ss

Municipal Court, City of Minneapolis

U. D. No. 33943

Decision and Order

The above entitled action came regularly on for trial before the undersigned, one of the Judges of said Court, without a jury, on the 26th day of September, 1961, the plaintiff appearing in person and by Arnold I. Feinberg, Esq., as counsel, the defendants appearing in person and by _____ Esq., as counsel, and pleading not guilty.

The Court finds the defendants guilty of unlawful detention of the premises described in the complaint and concludes that the plaintiff have restitution of said premises without delay and recover costs and disbursements herein.

STAYED UNTIL OCT. 1, 1961

Let judgment be entered accordingly.

By the Court,

Dated this 26th day
of September, 1961
FIVE DAY STAY

Bruce C. Stone
Judge.

On 26 SEPTEMBER 1961, in Minneapolis Municipal Criminal Court, PETITIONERS were "convicted" of unlawful detention of the HOMESTEAD PREMISES, WITHOUT FACTS ALLEGED, or PROOF ADDUCED, while in continuous, uninterrupted, exclusive, notorious, and peaceable possession, for a period of 42 years.

At the hearing before Judge BRUCE C. STONE, each of the Petitioners asserted peaceable possession of the premises and Absolute Homestead Rights, for 42 years. (Minn. S.Ct. RECORD, P. 5-16. ANSWER TO COMPLAINT IN UNLAWFUL DETAINER No. 33943.

On 28 NOVEMBER 1961, a timely Application to the MINNESOTA SUPREME COUPT, No. 38634, was filed, for Extra-Ordinary Relief. Hearing Day, 7 DECEMBER 1961.

On 6 DECEMBER 1961, PETITIONER received, "RESPONSE OF DEFENDANT NORTHWEST HOLDING CO. TO PLAINTIFF'S PETITION AND MOTION", with attached AFFIDAVIT, both signed by Attorney ARNOLD I. FEINBERG. (MINN. S.CT. RECORD, P. 100 thru 104.)

This RESPONSE did NOT allege facts sufficient to show the RIGHT OF POSSESSION, and remained SILENT on all other issues.

On 6 DECEMBER 1961, PETITIONERS served MEMORANDUM TO AID THE COURT A N D ANSWER TO RESPONSE OF DEFENDANT. (Minn. S.Ct. RECORD 105-112).

On 13 DECEMBER 1961, PETITIONERS received a letter from MAE SHERMAN, Clerk of Supreme Court, stating :

"IT IS ORDERED that the petition for special relief be, and the same hereby is denied".

WHEN IN FACT, NO HEARING WAS HELD BY THE COURT.

A timely APPEAL was made to the Minn. Supreme Court.

In Minnesota Supreme Court, APPEAL, CASE No. 38771, Hearing Day, 6 DECEMBER 1962, NO RESPONSE was made by Appellee, N.W. HOLDING CO., A MINN. CORP., NOR, did a Principal Defendant appear, to represent the Appellee in the Main Action, NOR, did an Appellee appear in ANY of the SIX CONSOLIDATED ACTIONS.

The Minn. Supreme Court dated JUNE 21, 1963, OPINION (265 MINN. 562) Dismissed, and stated in part: "This has been unusual and unfortunate litigation. ....for which they now appear to have no remedy...."

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Two (2) timely PETITIONS FOR REHEARING, Case No. 38771, were "denied".

The action was timely REMOVED to the U. S. District Court of Minnesota, to adjudicate the Federal Claims. (4-63 Civil 457).

"WHERE STATE PROCEDURAL SNARLS OR OBSTACLES PRECLUDE AN EFFECTIVE STATE REMEDY AGAINST UNCONSTITUTIONAL CONVICTIONS, FEDERAL COURTS HAVE NO OTHER CHOICE BUT TO GRANT RELIEF IN THE COLLATERAL PROCEEDING".

The N.W. HOLDING CO., by attorney ARNOLD I. FEINBERG, made MOTION TO DISMISS, because, "....obviously, this court could not review an appeal of the Minnesota Supreme Court".

This motion was granted, and APPELLANTS' timely MOTIONS FOR SUMMARY JUDGMENT were not ruled upon.

In a dated JANUARY 13, 1964, ORDER OF DISMISSAL, Judge GUNNAR H. NORDBYE, stated in part:

"Obviously, this Court has no jurisdiction to entertain petitioners' petition to review this decision of the Supreme Court of the State of Minnesota or any of the subsequent orders therein. "It follows, therefore, that respondent's motion to dismiss the petition herein must be granted. It is so ordered."

PETITIONERS made numerous timely motions in accordance to the Court rules, adjudicated cases, state and federal statutes, state and federal constitutional rights, and the Common Law; as well as served ADMISSIONS OF TRUTH, entered Exhibits, etc., but the Federal Court would not adjudicate, even though, NO RESPONSIVE PLEADINGS had been made.

The U.S. District Court, in a dated DECEMBER 20, 1965, ORDER, stated in part:

> "The Clerk of this Court, therefore, is directed and ordered not to accept for filing from plaintiffs....."

A timely "MOTION IN ARREST OF JUDGMENT" was served and mailed with proof of service to the Clerk for filing.

The Clerk of Court returned the motion.

On Hearing Day, JANUARY 10, 1966, the Chief Judge, would not accept the Motion for filing, NOR, would he hear the matter.

"THE COURT: Mr. Rosso, you know Judge Nordbye has made an order advising the Clerk not to accept any more filings from you. You see, he has heard your case over and over again, and he has tried to explain to you

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> how you have no cause of action here; and so the Clerk isn't authorized to file this instrument now....Maybe you have some recourse over in State court, but you don't have any here..."

A timely Application to the U.S. Court of Appeals for MANDAMUS, No. 18276, was "denied", on FEBRUARY 16, 1966. (Not yet reported, in the Federal Reporter System).

A TIMELY APPEAL, No. 18319, was docketed in the U.S. Court of Appeals.

On NOVEMBER 15, 1966, the Court affirmed the U. S. District Court.

On NOVEMBER 29, 1966, the Court denied a timely MOTION IN ARREST OF JUDGMENT AND THE JUDGMENT IS VOID AND MOTION TO REVIEW THE DISTRICT COURT RECORD FOR PURPOSES OF CORRECTION BY REHEARING.

STATEMENT

I. VERIFIED PETITION, U.S. DISTRICT COURT.
THE COMPLAINT.

This action was disposed of by the U.S. District Court, upon motion for dismissal of the complaint,

* * P R I O R T O D E T E R M I N I N G * *

WHETHER THE COURT HAD "JURISDICTION",

WHETHER THE COURT HAD "VENUE JURISDICTION",

WHETHER PETITIONERS SHOULD BE PERMITTED TO SECURE DISCOVERY,

AND WITHOUT RULING ON THE TWO TIMELY MOTIONS FOR SUMMARY JUDGMENT, A N D,

WITHOUT ORDERING PETITIONERS TO AMEND TO SHOW JURISDICTION.

BLACK'S LAW DIC., 4th Ed., 1727. "Jurisdiction" of the Court MEANS the inherent power to decide a case whereas "venue" designates the particular county or city in which a court with jurisdiction may hear and determine the case.

320 F 2d 219 (1962 Vt.)(CA2) Arrowsmith v. United Press International
F.C.P. Key 1827
WHERE DEFENDANT MOVES TO VACATE ON VARIOUS GROUNDS, INCLUDING LACK OF PERSONAL JURISDICTION, IMPROPER VENUE, AND FAILURE OF COMPLAINT TO STATE RELIEF, ON WHICH RELIEF CAN BE GRANTED, COURT SHOULD CONSIDER ISSUES OF JURISDICTION AND VENUE, PRIOR TO CONSIDERATION OF MERITS CLAIM. (Rule 12(b).

6 FRD 340 (D.C. Kan.) Panhandle Eastern Pipe Line Co., v. Parish.

IF THE STATE COURT LACKS JURISDICTION BEFORE REMOVAL, THE DISTRICT COURT CAN ACQUIRE NONE; CONVERSELY, IF

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THE STATE COURT HAS JURISDICTION AND REMOVAL REQUIREMENTS ARE SATISFIED, THE ELEMENTS OF FEDERAL JURISDICTION OTHERWISE EXISTING, JURISDICTION ATTACHES ON REMOVAL; CASES CITED.

37 FRD 62 (1965 Hawaii) Haleiwa Theatre Co. v. Forman.
Federal Civil Procedure Key 1269.

PETITIONER SHOULD BE PERMITTED TO SECURE DISCOVERY SO THAT MATTER OF PROPER OR IMPROPER VENUE CAN BE MORE ADEQUATELY DECIDED ON ALL ACTUAL AVAILABLE FACTS, RATHER THAN ON TECHNICAL MOTION TO DISMISS BASED ON CONCLUSORY EX PARTE AND SELF-SERVING STATEMENTS WHICH MAY NOT PRESENT THE COMPLETE PICTURE.

264 F (2d) 666, aff'g 162 F Supp. 944.

A CORPORATION CANNOT REFUSE TO ANSWER INTERROGATORIES PROPOUNDED BY THE UNITED STATES ON THE OBJECTION THAT TO REQUIRE ANSWER WOULD DESTROY CONSTITUTIONAL PRIVILEGE AGAINST SELF-INCRIMINATION, SINCE THE 5TH AMENDMENT (CONST. AMEND. 5) PLEA IS PERSONAL AND CORPORATION CANNOT TAKE ADVANTAGE OF SAME.

II. MOTION FOR DISMISSAL AND AFFIDAVIT.

In the Complaint, it is alleged that the HOMESTEAD PROPERTY, in quiet, peaceable possession, was taken by FORCE, VIOLENCE and TERROR, under the "color of law", together with the EXEMPT PERSONAL LIFELONG POSSESSIONS of GORDON EVANSON and FAMILY, and subsequently, the HOMESTEAD GARAGES, together with the CONTENTS therein, were Took and Carried Away.

The Complaint also alleges that the INVASION and SEIZURE, was in contempt of a District Court Temporary Restraining Order; scheduled Court re-hearing in Municipal Court, and a scheduled Court hearing for Extraordinary Relief in the Minnesota Supreme Court.

The Complaint also alleges the TENANTS IN POSSESSION, under their Landlord's Title, breached their contract to pay rent, and attorned to a Stranger.

The Complaint also alleges the FIDELITY SECURITIES & INVESTMENT CO., A MINN. CORP., instituted a spurious District Court Action, to PREVENT the HOMESTEAD OWNER from obtaining the RIGHT OF POSSESSION from mere TENANTS, and UNLAWFUL ENTRY TRESPASSERS.

The N.W. HOLDING CO., specifically denied these allegations in the "bare bones" motion for dismissal, together with an attached Affidavit.

MOTION FOR DISMISSAL Civil Action File No.4-63 Civ. 457
Hearing Day: JANUARY 13, 1964.

The defendant moves the Court as follows:

1. To dismiss the action because the complaint or petition fails to state a claim against defendant upon which relief can be granted.

2. To dismiss the action or in lieu thereof quash the return of service of summons on the ground that the court lacks jurisdiction because there is no federal or constitutional question involved and the parties are not citizens of diverse state.

Bound

3. To dismiss the action on the ground that the court lacks jurisdiction because no justiciable controversy is presented.

FEINBERG, MIRVISS, MEYERS, SCHUMACHER & MALMON

By /s/ Arnold I. Feinberg
Arnold I. Feinberg
Attorneys for Defendant
810 Title Insurance Bldg.
Minneapolis 1, Minnesota

A F F I D A V I T

STATE OF MINNESOTA)
COUNTY OF HENNEPIN) ss

Arnold I. Feinberg, being first duly sworn upon oath deposes and says that he is an attorney at law duly licensed to practice his profession in the State of Minnesota and in the Federal District Court for the District of Minnesota.

That he represented the defendant in this action, namely Northwest Holding Company, a Minnesota corporation, in an unlawful detainer action in the Municipal Court of the City of Minneapolis in which the above named plaintiffs were the defendants. That the Municipal Court of the City of Minneapolis ruled in favor of the Northwest Holding Company and against the present plaintiffs in said unlawful detainer action, whereupon, the present plaintiffs appealed the decision of the Minneapolis Municipal Court to the Supreme Court of the State of Minnesota.

That the Supreme Court of the State of Minnesota in its case No. 38771 and in a decision rendered by the Supreme Court of the State of Minnesota on June 21, 1963, affirmed the decision of the Minneapolis Municipal Court in said case.

That the plaintiffs in this action are apparently seeking some sort of review of the decision of the Supreme Court of the State of Minnesota in this Court. It is respectfully submitted that this Court does not have the jurisdiction to review decisions of the Supreme Court of the State of Minnesota.

Further affiant sayeth not.

/s/ Arnold I. Feinberg

Subscribed and sworn to before me
this 23rd day of December, 1963.
/s/ BEVERLY L. LARSON
BEVERLY L. LARSON
Notary Public, Hennepin Co., Minn.
My Commission expires Feb. 10, 1966.

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45 N.W. 2d 848

"IN FURNISHING AN AFFIDAVIT UPON WHICH A COURT MUST RELY FOR JURISDICTION, A LITIGANT MAY NOT WASH FROM HIS EARS WHAT HE HAS HEARD, BLOT FROM HIS MEMORY WHAT HE HAS KNOWN AND DIRECT THE SERVICE OF PROCESS DOWN A BLIND ALLEY. SUBTERFUGE IS NOT LOOKED UPON WITH FAVOR. FRAUD ON THE COURT INCIDENT TO DUE PROC IS JURISDICTIONAL. A JUDGMENT OR DECREE BASED ON JURISDICTIONAL FRAUD IS VOID."

By Snell, Justice. In re Estate of Roedell, 122 NW 2d 842. (Citing Korsrud v. Korsrud, 242-178, 45 NW 2d 848).

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III. THE LEGAL EFFECT OF
THE MOTION FOR DISMISSAL AND AFFIDAVIT.

The Motion for Dismissal, specifically alleges the Complaint fails to state a claim against the Defendant upon which relief can be granted, and the Court lacks jurisdiction, the LEGAL EFFECT thereof being, to concede that:

The HOMESTEAD PROPERTY was peaceably taken in accordance to due process of law,

The EXEMPT PERSONAL LIFELONG POSSESSIONS of GORDON EVANSON & FAMILY, were peaceably taken, and would be SOLD IN INTERSTATE COMMERCE, in accordance to due process of law,

The Temporary RESTRAINING ORDER, A N D SCHEDULED COURT HEARINGS were spuriously obtained for delay, and could be ignored,

The TENANTS breached their rental contracts, and attorned to a Stranger, in accordance to judicial proceedings, conducted in accordance to law,

A N D,

The FIDELITY SECURITIES & INVESTMENT COMPANY, A MINN. CORPORATION, a third-party "TORRENS TITLE OWNER" whose rights have now intervened, was seeking judicial relief, in accordance to law, from the spurious Unlawful Detainer Actions brought by the HOMESTEAD-LANDLORD against TENANTS, who gained possession under their Landlord's Title,

AND FROM,

the spurious Unlawful ENTRY actions brought by the HOMESTEAD-LANDLORD, against UNLAWFUL ENTRY TRESPASSERS, after one month's NOTICE TO QUIT, A N D,

The HOMESTEAD GARAGES, together with the CONTENTS therein, were lawfully TAKEN AND CARRIED AWAY, at the direction of a THIRD-PARTY TORRENS TITLE OWNER, FIDELITY SECURITIES & INVESTMENT CO., for the purpose of ENLARGING their PARKING LOT, A N D,

The N.W. HOLDING CO., had the right of possession WITHOUT SERVICE in Unlawful Detainer, being made upon PAUL DAN ROSSO and PAULINA ROSSO (Sheriff's Return SHOWS PAUL ROSSO "NOT FOUND"; PAULINA ROSSO "NOT FOUND")

WITHOUT making a CLAIM for the Right of Possession, as required by the Unlawful Detainer STATUTE,

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WITHOUT adducing ANY EVIDENCE to claim the Right of Possession, at the Court of Inquiry,

WITHOUT making a RESPONSE to the HOMESTEAD-DEFENDANTS' TIMELY ANSWER, alleging peaceable possession and Title since the year 1919,

A N D W I T H,

A "Writ of Restitution", PREPARED by a "DEPUTY CLERK" of Minneapolis Municipal Court,

* * * * THE LEGAL EFFECT * * * *

THE N. W. HOLDING COMPANY, A MINN. CORPORATION, THEIR AGENTS, EMPLOYEES, ATTORNEYS AND OWNER; THE MOHAWK-TRANSFER AND STORAGE COMPANY; THE MINNEAPOLIS POLICE (ABOUT 20 to 30 POLICEMEN); TOGETHER WITH OTHERS,

COULD OVERLOOK AND IGNORE FEDERAL AND STATE PROTECTED RIGHTS

AND INVADE WITHOUT NOTICE, WARNING, OR PROBABLE CAUSE, IN DISTURBANCE OF THE PUBLIC PEACE, AND BY FORCE SEIZE THE HOMESTEAD PROPERTY, TOGETHER WITH ALL THE LIFELONG EXEMPT PERSONAL POSSESSIONS AND EXEMPT HOUSEHOLD POSSESSIONS THEREIN (OVER 6,000 POUNDS) ; AND OBTAIN A $28,000 MORTGAGE FROM TWIN CITY FEDERAL SAVINGS & LOAN ASSOCIATION, MINNEAPOLIS;

and THEN "SELL", THE HOMESTEAD PROPERTY, SUBJECT TO TWIN CITY FEDERAL SAVINGS & LOAN ASSOCIATION MORTGAGE — TO A HOMESTEAD NEIGHBOR, namely :

ATTORNEY FRANK M. FUDALI, and his Son,

ATTORNEY RICHARD H. FUDALI —

(For about 20 years, FUDALI'S LAW OFFICE has been located within one City block of the Homestead)

AND "SELL" ALL THE LIFELONG EXEMPT PERSONAL POSSESSIONS AND HOUSEHOLD POSSESSIONS IN INTERSTATE COMMERCE.

tly Bound

IV. HEARING DAY, U. S. DISTRICT COURT
JANUARY 13, 1964.

The N. W. HOLDING COMPANY, made MOTION FOR DISMISSAL, return day, January 13, 1964.

ON HEARING DAY, JANUARY 13, 1964, NO PRINCIPAL DEFENDANT appeared to represent the N.W. Holding Co., a Minnesota Corporation.

NO PRINCIPAL DEFENDANT appeared to represent ANY of the Defendants in the SIX CONSOLIDATED CASES :

MELBA P. EVANSON v. H. H. WEESE

MELBA P. EVANSON v. MRS. FLORENCE MADY

MELBA P. EVANSON v. ANCHOR LAUNDRY CO., A MINN. PARTNERSHIP WM. HIRSCH OWNER-PARTNER

MELBA P. EVANSON v. MR. & MRS. ALBERT A. POIN

MELBA P. EVANSON v. MR. & MRS. KENNETH MELL, JR.

FIDELITY SECURITIES & INVESTMENT CO., A MINN. CORP.
v.
MELBA P. EVANSON AND PAUL DAN ROSSO

ARNOLD I. FEINBERG, Attorney, appeared and represented N. W. HOLDING COMPANY, A MINNESOTA CORPORATION.

NO ATTORNEY appeared to represent ANY of the Defendants in the SIX CONSOLIDATED CASES.

PETITIONERS served and filed with proof of service, a timely MOTION FOR SUMMARY JUDGMENT against N. W. HOLDING COMPANY.

PETITIONERS timely served and filed with proof of service, INTERROGATORIES upon Defendant-President-Attorney ISRAEL MIRVISS of N. W. HOLDING COMPANY.

NO RESPONSE, OR OBJECTIONS TO THE INTERROGATORIE was made by Defendant ISRAEL MIRVISS.

PETITIONERS timely served and filed with proof of service, a MOTION FOR SUMMARY JUDGMENT against Defendan President-Attorney ISRAEL MIRVISS of N. W. HOLDING CO.

NO FACTS WERE ADDUCED ON HEARING DAY

BY ATTORNEY ARNOLD I. FEINBERG TO SHOW THAT

The HOMESTEAD PROPERTY was peaceably taken in accord to due process of law;

The HOMESTEAD-OWNER did not have the RIGHT OF POSSE

The EXEMPT PERSONAL LIFELONG POSSESSIONS (over 6,00 pounds), were peaceably taken in accordance to law;

The TEMPORARY RESTRAINING ORDER was set aside;

The SCHEDULED COURT HEARINGS in the Minneapolis MUNICIPAL COURT, A N D the MINNESOTA SUPREME COURT, were CANCELLED - WITHOUT A HEARING;

The TENANTS, IN POSSESSION UNDER THEIR HOMESTEAD-LANDLORD'S TITLE, COULD BREACH their Rental Contract, and ATTORN to a STRANGER, in accordance to law;

The UNLAWFUL ENTRY TRESPASSERS, AFTER ONE MONTH'S "NOTICE TO QUIT", from the HOMESTEAD-OWNER, had the Right of POSSESSION of the Homestead APARTMENTS, in accordance to law;

The MINNEAPOLIS CRIMINAL COURT had JURISDICTION in Unlawful Detainer, over PAUL ROSSO and PAULINA ROSSO - when the Sheriff's Returns indicate, : "NOT FOUND";

The FIDELITY SECURITIES & INVESTMENT CO., A MINN. CORP., was seeking RELIEF from the HOMESTEAD OWNER'S SPURIOUS SUITS for the RIGHT OF POSSESSION, from MERE TENANTS and TRESPASSERS, occupying PORTIONS of the Homestead, AND,

The HOMESTEAD GARAGES, and CONTENTS THEREIN, were removed in accordance to law, at the direction of the "Torrens Title Owner" - FIDELITY SECURITIES AND INVESTMENT CO., A MINNESOTA CORPORATION.

THE SUMMONS AND COMPLAINT IN UNLAWFUL DETAINER prepared by Attorney ARNOLD I. FEINBERG, SERVED upon GORDON EVANSON and MELBA P. EVANSON,

CONCLUSIVELY SHOWS :

ATTORNEY FEINBERG K N E W THE EVANSONS WERE IN PEACEABLE POSSESSION OF THE HOMESTEAD.

THE AFFIDAVIT, dated SEPTEMBER 19, 1961, signed by ATTORNEY FEINBERG, states that he has read the foregoing Complaint, (served upon Gordon Evanson and Melba P. Evanson), which alleges, "...THAT SAID DEFENDANTS...ARE STILL IN POSSESSION OF THE PREMISES..."

CONCLUSIVELY SHOWS :

ATTORNEY FEINBERG K N E W THE DEFENDANTS EVANSONS, WERE IN PEACEABLE POSSESSION OF THE HOMESTEAD. (Minn. S.CT. RECORD, P. 2 and 4.)

THE SUMMONS AND COMPLAINT IN UNLAWFUL DETAINER, and attached AFFIDAVIT, prepared by Attorney FEINBERG, filed in Mpls. Criminal Court, with Sheriff's Returns that show PAUL ROSSO "NOT FOUND" and PAULINA ROSSO "NOT FOUND", CONCLUSIVELY SHOWS :

ATTORNEY FEINBERG K N E W THE ROSSOS WERE IN PEACEABLE POSSESSION OF THE HOMESTEAD.

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THE TRANSCRIPT taken on Hearing Day, JANUARY 13, 1964, in the U.S. DISTRICT COURT, reflects :

"MR. FEINBERG : "...real estate previously owned by these people..."

CONCLUSIVELY SHOWS :

ATTORNEY ARNOLD I. FEINBERG K N E W the REAL ESTATE WAS PROPERLY RECORDED IN THE REGISTER OF DEEDS OFFICE, IN THE NAME OF THE HOMESTEAD OCCUPANTS.

SEE: TRANSCRIPT - Case No. 4-63 Civ. 457
Hearing Day, January 13, 1964.
PAGE 171A

STATEMENT

V. IN U. S. COURT OF APPEALS.

HEARING DAY : OCTOBER 10, 1966.

This action was disposed of by the U. S. Court of APPEALS, on two different occasions :

1. A timely PETITION FOR MANDAMUS, CASE NO. 18276, was "denied"; on FEBRUARY 16, 1966. (Not yet reported in the Federal Reporter System.)

2. A timely APPEAL, CASE NO. 18319, was "dismissed", by affirming the U. S. District's action, on NOVEMBER 15, 1966.

THE U. S. COURT OF APPEALS :

> "HELD, that federal district court had no jurisdiction to review decision of state supreme court."

386 F 2d 531, 532 Evanson et al., v. N.W.Holding Co.

THE ACTION OF THE DISTRICT COURT IN DISMISSING THE CASE FOR WANT OF JURISDICTION IS SO OBVIOUSLY CORRECT THAT WITHOUT FURTHER COMMENT SUCH ACTION IS AFFIRMED.

A portion of the Minnesota Supreme Court OPINION, was recited as disposing of the State and Federal Questions raised.

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The U.S. Court of Appeals, did not order the Appellants to amend to show jurisdiction, prior to dismissal, NOR, did the Court make any findings that the interlocked and consolidated actions were improvidently removed, NOR, did the Court make findings that under no set of facts alleged, could a claim be construed.

NO ANSWER or OBJECTIONS, or APPEARANCE FORM was made by any of the parties in the U.S. Court of APPEALS.

368 F 2d 561 Evanson et al v. N.W. Holding Co.

"PAUL DAN ROSSO, pro se.

"JOE WALTERS, Minneapolis, Minn., for appellee.

"No oral arguement was made or brief was filed on behalf of appellee."

* * * IT SHOULD BE NOTED * * *

On Hearing Day, 10 OCTOBER 1966, U.S. Court of Appeals, NO PRINCIPAL DEFENDANT appeared to represent ANY of the several parties, NOR, did an Attorney appear to represent ANY of the several actions.

On Hearing Day, in the U.S. Court of Appeals, the ONLY PERSONS in the Courtroom, were the JUDGES; LAW CLERKS; CLERK OF COURT; PAUL DAN ROSSO and MELBA P. EVANSON. "JOE WALTERS" WAS NOT PRESENT FOR APPELLEE.

A timely MOTION FOR ARREST OF JUDGMENT AND THE JUDGMENT IS VOID AND MOTION TO REVIEW THE DISTRICT COURT RECORD FOR PURPOSES OF CORRECTION BY REHEARING, was "denied", on 29 NOVEMBER 1966.

The U. S. Court of Appeals, has the duty to make inquiry into jurisdictional questions factually to find the truth, and if necessary, the Court has the duty to order amendment of pleadings to show jurisdiction (28 USC 1653) in order to grant real, complete, and lasting relief.

293 US 52, 54; 55 S.CT. 16 (1936); 125 US 18; 8 S.CT. 741 (1888)

IT IS ESSENTIAL TO THE JURISDICTION OF THIS COURT IN REVIEWING A DECISION OF A COURT OF A STATE THAT IT MUST APPEAR AFFIRMATIVELY FROM THE RECORD, NOT ONLY THAT A FEDERAL QUESTION WAS PRESENTED FOR DECISION TO THE HIGHEST COURT OF THE STATE HAVING JURISDICTION, BUT THAT ITS DECISION OF THE FEDERAL QUESTION WAS NECESSARY TO DETERMINATION OF THE CAUSE, AND THAT IT WAS ACTUALLY DECIDED OR THAT THE JUDGMENT AS RENDERED COULD NOT HAVE BEEN GIVEN WITHOUT DECIDING IT.

Bound

VI. JURISDICTION THROUGH THE VARIOUS COURTS.

The Minneapolis Criminal Court DID NOT HAVE JURISDICTION, to "give" N.W. HOLDING COMPANY, the Right of Possession of the Homestead Premises,

WHEN THE RECORD CLEARLY SHOWS :

NO SERVICE WHATSOEVER was made upon PAUL ROSSO and PAULINA ROSSO;

The SUMMONS in Unlawful Detainer, served upon GORDON EVANSON and MELBA P. EVANSON, was NOT SIGNED by a Judge, as required by Statute;

NO FACTS were alleged in the U.D. COMPLAINT, to CLAIM the Right of Possession, as required by Statute;

NO FACTS were adduced at the "hearing" to show the N.W. HOLDING CO., had the "right of possession", from the HOMESTEAD-OCCUPANTS, in peaceable, exclusive, notorious possession, since the year 1919.

NO FINDINGS were made by the Court, NOR was the WRIT OF RESTITUTION, made by the Court, as required by Statute.

The Minneapolis Criminal Court has JURISDICTION TO ENTERTAIN A N Y DEFENSE to the Unlawful Detainer Action. (Minn.S.CT. RECORD,P. 39 thru 53, (TRANSCRIPT - Mun.Crim.Ct. JUDGE STONE)

GORDON EVANSON and MELBA P. EVANSON, BY DEFENSE, alleged the PEACEABLE POSSESSION of the HOMESTEAD PROPERTY; a Recorded Title in the Register of Deeds Office; the Premises assessed by the City Assessor, at the homestead rate; and the taxes levied by the County Treasurer, at the Homestead Rate.

AT THE CRIMINAL COURT HEARING, PAULINA ROSSO alleged TITLE since the year 1919, and PEACEABLE POSSESSION.
((SEE: WRITTEN ANSWER TO COMPLAINT IN U.D. Page 20A))

THE DEFENSE BY WRITTEN ANSWER, also alleged that the Mpls. Criminal Court, in accordance to the Municipal Court Act, should "LOOK INTO AND TAKE ACTION", into several pretended actions, to "purge the record".

92 NW 2d 569 (Iowa 1958) Halverson v. Hageman.

97 US 444 (1878) Settlemier v. Sullivan.

A VOID JUDGMENT COULD BE DISREGARDED AND TREATED AS A NULLITY WHENEVER ANY RIGHT WAS CLAIMED UNDER IT, WHETHER SET ASIDE OR NOT.

IT MAINTAINED THE APPEAL SOLELY FOR THE PURPOSE OF REVERSING THE JUDGMENT AND THUS PURGING ITS RECORDS.

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A timely Application for Extraordinary Relief was made to the Minnesota Supreme Court, in accordance to Supreme Court Rules of Practice, RULE IV, and Statute Ch. 480.04.

The N. W. Holding Company made a MOTION FOR DISMISSAL. No hearing was held in the Supreme Court, on the Application. Instead, the Clerk, entered an ORDER, denied.

PAUL ROSSO later learned from Chief Judge OSCAR R. KNUTSON, "We never had that case".

A timely APPEAL was made to the Minn. Supreme Court, in accordance to Statute 605.09(7). The N. W. Holding Co., made a MOTION FOR DISMISSAL. This Motion was DENIED.

Neither the N. W. Holding Company, NOR the Interlocked and Consolidated Cases made an Answer. On JUNE 21, 1963, the Court dismissed the APPEAL, becuase, "No appeal has been taken from the judgment of restitution entered November 8, 1961".

No decision was entered in any of the consolidated cases. In a timely PETITION FOR REHEARING, the Appellants pointed out, that the Criminal Court

D I D N O T E N T E R A "JUDGMENT OF RESTITUTION"

FROM WHICH AN APPEAL COULD BE TAKEN.

THE MPLS. CRIMINAL COURT ONLY ISSUED ORDERS, "DENIED" STAY 5 DAYS; and on REHEARING, ORDER "DENIED" STAY 10 DAYS; and ORDER "DENIED" NUNC PRO TUNC.

((SEE: MINN. SUP. CT. RECORD #38771 for ORDERS PAGES 55, 77, and 81)) AND PAGE 56 FOR WRIT OF RESTITUTION.

N O T E.: The N.W. Holding Co., had obtained a "Writ of Restitution", VOID UPON ITS FACE, from a Deputy Clerk of Court, NOT SIGNED by a Judge, as required by Statute, and WITHOUT STATING THE CAUSE OF ACTION BEFORE THE COURT OF INQUIRY; AND WITHOUT FINDINGS AND CONCLUSIONS OF LAW BY THE COURT, that N.W. HOLDING COMPANY had the Right of Possession.

The timely PETITIONS FOR REHEARING were also denied, by the Minnesota SUPREME COURT.

230 MINN. 279; 16 ALR 2d 1015 (1950)

FOR AN ORDER TO BE APPEALABLE UNDER MINN. ST. 605.09(3), WHICH ALLOWS AN APPEAL FROM AN ORDER INVOLVING THE MERITS, THE ORDER MUST FINALLY DETERMINE THE ACTION OR SOME POSITIVE LEGAL RIGHT OF APPELLANT RELATING THERETO.

y Bound

240 MINN. 505 (1953)

THE TEST OF APPEALABILITY IS WHETHER THE ORDER IN EFFECT FINALLY DETERMINES THE ACTION OR FINALLY DETERMINES SOME POSITIVE LEGAL RIGHT OF THE APPELLANT RELATING THERETO.

240 MINN. 468 (1953)

BEFORE A JUDGMENT CAN BE SUSTAINED ON APPEAL, THE CONCLUSIONS UPON WHICH IT IS BASED MUST FIND SUPPORT IN THE FINDINGS. REMEDY FOR FAILURE TO MAKE SPECIFIC FINDINGS ON LITIGATED ISSUES IS BY MOTION IN THE TRIAL COURT BEFORE OR SUBSEQUENT TO JUDGMENT, BUT THIS PRINCIPLE DOES NOT LIMIT SUPREME COURT'S AUTHORITY TO DETERMINE ON APPEAL FROM THE JUDGMENT WHETHER CONCLUSIONS UPON WHICH IT IS BASED FIND SUPPORT IN FINDINGS, OF THE TRIAL COURT. PRELIMINARY MOTION IN TRIAL COURT FOR SPECIFIC FINDINGS, OR FOR AMENDED FINDINGS, IS NOT PREREQUISITE TO THE EXERCISE OF THIS AUTHORITY ON SUCH AN APPEAL.

39 OKLA. 486. 49 LRA (NS) 548

AN ACTION UPON AN ORDER OF GARNISHMENT FAILED WHERE THE JUDGMENT AGAINST THE PRINCIPAL DEFENDANT IN THE SUIT AGAINST HIM WAS ABSOLUTELY VOID, AS THERE HAD BEEN NO LEGAL SERVICE UPON HIM.

97 U.S. 444 (1878) Settlemier v. Sullivan.

SEE PAGE OF THE WRIT.

M.R.C.P. RULE 81.03 Rules Incorporated into Statutes.

WHERE ANY STATUTE HERETOFORE OR HEREAFTER ENACTED, WHETHER OR NOT LISTED IN APPENDIX A, PROVIDES THAT ANY ACT IN A CIVIL PROCEEDING SHALL BE DONE IN THE MANNER PROVIDED BY LAW, SUCH ACT SHALL BE DONE IN ACCORDANCE WITH THESE RULES.

THE SEVERAL CONSOLIDATED ACTIONS WERE TIMELY REMOVED to the U. S. District Court, to adjudicate the SUBSTANTIAL FEDERAL CLAIMS.

6 FRD 340 (D.C. Kan.) Panhandle Eastern Pipe Line Co. v. Parish.

IF THE STATE COURT HAS JURISDICTION, AND THE REMOVAL REQUIREMENTS ARE SATISFIED, THE ELEMENTS OF FEDERAL JURISDICTION OTHERWISE EXISTING, JURISDICTION ATTACHES ON REMOVAL. Cases cited.

The N. W. HOLDING COMPANY, made a MOTION FOR DISMISSAL, N O T B A S E D UPON MATTERS ALLEGED IN THE VERIFIED PETITION, N O R, BASED ON LEGAL GROUNDS AS A MATTER OF JUDICIAL RIGHT.

y Bound

The Court granted dismissal, WITHOUT ruling on Venue Jurisdiction, or Jurisdiction, or on TWO (2) Timely APPLICATIONS FOR SUMMARY JUDGMENT, or, ordering Plaintiff to AMEND to show jurisdiction.

A timely motion was made, that the dated 15 JANUARY 1964, ORDER was VOID, Rule 60 (b)(4).

Neither the N. W. Holding Company, NOR, the Interlocked and Consolidated Cases made Answer.

INTERROGATORIES WERE SERVED to show that the Court had jurisdiction. NO RESPONSE OR OBJECTIONS were made. Timely Applications for DEFAULT and SUMMARY JUDGMENTS were made. RULE 32(b)(3),FRCP.

ALL APPLICATIONS WERE DENIED BY THE COURT.

Several applications, by COMMON LAW WRITS, and in accordance to the SANDER'S DECISION were made and denied.

83 S.CT. 1068.(1963) Sanders v. United States.

A timely Application for MANDAMUS was made to the U. S. Court of Appeals, Eighth Circuit, and denied.

TO THE UNITED STATES SUPREME COURT -:

It should be noted, that NO SUBSTANTIAL MATERIAL FACTS are in dispute to PETITIONERS' CLAIMS, because:

1. NO ANSWER was made in the Minnesota Supreme Court.
2. NO ANSWER was made in the U. S. District Court.
3. NO ANSWER was made in the U.S. Court of Appeals.

THE RECORD CLEARLY SHOWS :

AT THE COMMENCEMENT OF THE SPURIOUS ACTIONS IN UNLAWFUL DETAINER, APPELLANTS' HOMESTEAD PROPERTY HAD NO LIENS OR INDEBTEDNESS OF ANY KIND, SUCH AS, (1) unpaid taxes, (2) unpaid special assessments, (3) unpaid mortgages, (4) unpaid workman's liens, or (5) unpaid materialman's liens.

APPELLANTS were lawfully in OPEN, QUIET, EXCLUSIVE, NOTORIOUS, CONTINUOUS AND UNINTERRUPTED POSSESSION OF THE HOMESTEAD PROPERTY SINCE THE YEAR 1919.

The HOMESTEAD PROPERTY had NOT been conveyed, mortgaged, or transferred by APPELLANTS, to ANYONE.

The HOMESTEAD PROPERTY had NOT been condemned, or taken by eminent domain, or had been subject to any such proceedings whatsoever.

The APPELLANTS had NO unpaid debts of ANY kind, nor were there proceedings of ANY kind pending in ANY Court.

APPELLANTS have Title properly recorded in the Register of Deeds Office, continuously and uninterrupted since the year 1919, in the same Family.

The City Assessor recognized the property as HOMESTEAD for assessment purposes. The County Treasurer, taxing the property as HOMESTEAD.

The pretended "Torrens Title", alleged by N.W. Holding Company, left the Homestead Owner's Title out of view. Such an instrument is not a cloud upon the Homestead Owner's Title. 75 So. 2d 850 (La. 1950) Smith v. Taylor.

The Homesteader loses no rights by failing to move to vacate an unauthorized levy on his homestead. 145 Minn. 104. Beigler v. Chamberlin (1920)

A void judgment could be disregarded and treated as a nullity whenever any right was claimed under it, whether set aside, or not. 97 U.S. 444 (1878) Settlemier v. Sullivan.

THE PERTINENT RECORD APPEARS FULLY BEFORE THE UNITED STATES SUPREME COURT, AND THE CONTROVERTED QUESTIONS HAVE ACTUALLY BEEN ARGUED IN THE STATE AND FEDERAL COURTS.

THE RECORD IN THE UNITED STATES DISTRICT COURT IS COMPLETE, AND THE QUESTIONS TENDERED HAVE BEEN ADDRESSED TO THE TRIAL COURT, AND THE RECORD ON WHICH THEY WERE PRESENTED TO THE UNITED STATES COURT OF APPEALS WAS COMPLETE, AND, THEY HAVE BEEN BRIEFED AND ARGUED BEFORE THE COURT OF APPEALS.

237 F 2d 323 (1956 CA 9) Carr v. Beverly Hills Corp.

2. F.C.P. Key 1772

UNDER PRESENT PRACTICE BY MEANS OF A MOTION TO DISMISS IT CAN BE DISCOVERED WHETHER THERE IS A TRUE ISSUE OF FACT RAISED BY PLEADING AND IF THERE IS NO GENUINE ISSUE OF MATERIAL FACT, COURT MAY GRANT JUDGMENT BUT IF THERE IS ONE FACT OR SET OF FACTS, WHICH IS ESTABLISHED, COURT MAY ACCEPT IT AS UNCONVERTED AND TRY REMAINING ISSUES, AND ALL THIS MAY BE DONE WHERE COMPLAINT IS ONLY PLEADING BEFORE COURT.

3. F.C.P. Key 1959

UNDER F.R.C.P. PROVIDING FOR CONSOLIDATION OR SEPARATION OF TRIALS, THE COURT IS EMPOWERED TO ISOLATE AND TRY ANY ISSUE IN A CASE. RULE 42(b).

4. F.C.P. Key 1809

IN STOCKHOLDERS DERIVATIVE ACTION AGAINST CORP., ...WHEREIN DEFENDANTS MOVED TO DISMISS COMPLAINT ON GROUND OF LACK OF JURISDICTION, IT WAS PROPER FOR U.S. DISTRICT COURT TO TRY FACTS AS BASIS OF QUESTION BEFORE GOING FURTHER, SINCE JURISDICTION DEPENDS UPON FACTS AND NOT, IN FINAL ANALYSIS, UPON THE PLEADING.

237 F 2d 323 (1956 CA 9) Carr. v. Beverly Hills Corp. Federal Civil Procedure Key 1809.

SINCE JURISDICTION DEPENDS UPON THE FACTS AND NOT, IN THE LAST ANALYSIS UPON THE PLEADINGS, IT IS PROPER FOR THE COURT TO TRY THE FACTS AT THE BASIS OF THIS QUESTION BEFORE GOING FURTHER.

A timely APPEAL was made to the U. S. Court of APPEALS, Eighth Circuit, and "denied".

The Court of APPEALS did not ORDER Appellants to amend and show jurisdictional allegations, BUT INSTEAD, recited a portion of the Minn. Supreme Court OPINION, VOID UPON ITS FACE, that does not conform to the undisputed facts in the matter on RECORD.

A timely MOTION IN ARREST OF JUDGMENT, A N D THE JUDGMENT IS VOID, A N D MOTION TO REVIEW THE DISTRICT COURT RECORD FOR PURPOSES OF CORRECTION BY REHEARING, was denied, by the U.S. Court of APPEALS.

A timely APPLICATION FOR WRIT OF CERTIORARI, is before the United States Supreme Court for consideration.

84 S.CT 710 (1964) New York Times Co. v. Sullivan.

24. Courts Key 399(2) QUESTIONS OF FACT.

THE SUPREME COURT'S DUTY IS NOT LIMITED TO ELABORATION OF CONSTITUTIONAL PRINCIPLES; THE COURT MUST ALSO IN PROPER CASES REVIEW THE EVIDENCE TO MAKE CERTAIN THAT THOSE PRINCIPLES HAVE BEEN CONSTITUTIONALLY APPLIED.

26. COURTS KEY 399(2)

THE SEVENTH AMENDMENT, PROVIDING THAT "NO FACT TRIED BY A JURY, SHALL BE OTHERWISE REEXAMINED IN ANY COURT OF THE UNITED STATES, THAN ACCORDING TO THE RULES OF THE COMMON LAW," IS APPLICABLE TO STATE CASES COMING TO THE SUPREME COURT; BUT ITS BAN ON REEXAMINATION OF FACTS DOES NOT PRECLUDE THE SUPREME COURT FROM DETERMINING WHETHER GOVERNING RULES OF FEDERAL LAW HAVE BEEN PROPERLY APPLIED TO THE FACTS. U.S.C.A. CONST. AMEND. 7.

ound

VII. THE FEDERAL QUESTIONS SOUGHT TO BE REVIEWED, WERE PRESENTED FOR DETERMINATION IN EACH OF THE FOLLOWING COURTS :

THE FEDERAL QUESTIONS WERE PRESENTED FOR DETERMINATION in the MINNEAPOLIS CRIMINAL COURT, by timely ANSWER (Minn. S.CT. RECORD, P. 5), and ALSO, on HEARING DAY, SEPTEMBER 26, 1961 (Minn.S.CT. RECORD, TRANSCRIPT, P. 39).

THE FEDERAL QUESTIONS WERE PRESENTED FOR DETERMINATION in the timely MOTION TO SET-ASIDE ORDER dated SEPTEMBER 26, 1961. (Minn. S.CT. RECORD, P. 5 8).

THE FEDERAL QUESTIONS WERE PRESENTED FOR DETERMINATION in the timely MOTION TO SET-ASIDE THE ORDER DATED OCTOBER 28, 1961, AS NOT A LAWFUL ORDER. Hearing Day : NOVEMBER 24, 1961. (Minn.S.CT. RECORD, P.

On Hearing Day, EVANSONS, ET AL., were represented by ATTORNEY EARL O. WEGNER.

Attorney ARNOLD I. FEINBERG appeared, representing N.W. HOLDING CO., and requested the Court to grant a postponement until DECEMBER 1, 1961, because he (Feinberg) had a case in St. Paul, Minn.). Judge DONALD T. BARBEAU granted the request.

On NOVEMBER 27, 1961, Petitioners learned from a friend, that Attorney CARL O. WEGNER, was no longer handling our case. Petitioners immediately went to Attorney WEGNER, to learn the reason why.

Attorney WEGNER explained that he did "not have the time"; that it would take a whole fleet of attorneys to straighten this out, and suggested we contact our State Senator, Attorney DONALD FRASER, because Attorney Fraser has a large law office and could put men to work steady on the case.

Attorney WEGNER again stated that he understood we might be able to repurchase our property for $38,000, and urged us to try and make arrangements with W. W. Holding Co., to rent our Homestead Property for residence, rather than again go through the forcible eviction.

On NOVEMBER 27, 1961, approximately 1 to 2 hours after Petitioners left Attorney Wegner's office, Melba P. Evanson received a telephone call from Attorney WEGNER, who stated that District Judge JOHN A. WEEKS had "withdrawn the Restraining Order".

THE FEDERAL QUESTIONS WERE PRESENTED FOR DETERMINATION TO THE MINNESOTA SUPREME COURT, in the timely APPLICATION FOR EXTRAORDINARY RELIEF, in a MOTION FOR SPECIAL RELIEF, CASE NO. 38634, Hearing Day: DECEMBER 7, 1961. (S.CT. RECORD, P. 95).

On NOVEMBER 30, 1961, with a Writ of Restitution, VOID UPON ITS FACE, the N. W. HOLDING COMPANY, their Attorneys, Agents, Employees and Owner; the MOHAWK TRANSFER AND STORAGE COMPANY; the MINNEAPOLIS POLICE, together with OTHERS, by Force, Violence, and Terror,

INVADED AND SEIZED THE HOMESTEAD PROPERTY, TOGETHER WITH ALL THE EXEMPT LIFELONG PERSONAL AND HOUSEHOLD POSSESSIONS CONTAINED THEREIN.

On DECEMBER 13, 1961, the Clerk of Supreme Court mailed an unsigned form letter stating: "IT IS ORDERED

that the petition for special relief be, and the same hereby is denied. BY THE COURT"

A timely PETITION FOR REHEARING was "denied".

About three or four months later, Chief Judge ROGER DELL of the Minnesota Supreme Court, retired.

SUBSEQUENTLY, Paul Dan ROSSO, talked to the new Chief Judge OSCAR R. KNUTSON, and learned that, "we (Sup. Ct.) never had that case". To verify this, Judge KNUTSON opened his small appointment book and on the page dated DECEMBER 7,1961, showed ROSSO there were NO CASES written therein.

THE FEDERAL QUESTIONS WERE PRESENTED FOR DETERMINATION TO THE MINNESOTA STATE SUPREME COURT, in the timely APPEAL, Case No. 38771, by BRIEF, on Page 17, in the "LEGAL ISSUES" , AND IN THE,

"ANSWER TO RESPONDENTS MOTION FOR DISMISSAL", AND,

THE SIX (6) CONSOLIDATED ACTIONS.

THE FEDERAL QUESTIONS WERE PRESENTED FOR DETERMINATION TO THE MINNESOTA STATE SUPREME COURT, IN :

THE APPLICATION FOR DEFAULT JUDGMENT AGAINST N. W. HOLDING COMPANY,

THE ORAL ARGUMENTS ON HEARING DAY, DECEMBER 6, 1962,

THE TIMELY PETITION FOR REHEARING,

THE TIMELY APPLICATION FOR DEFAULT JUDGMENT AGAINST THE SIX (6) CONSOLIDATED ACTIONS,

THE SECOND TIMELY PETITION FOR REHEARING.

AND THE FEDERAL QUESTIONS WERE PRESENTED FOR DETERMINATION TO THE U. S. DISTRICT COURT IN :

THE REMOVAL PETITION,
THE ORAL ARGUMENTS,
THE SEVERAL MOTIONS,
THE EXHIBITS; THE INTERROGATORIES, A N D,
THE TIMELY APPLICATIONS FOR SUMMARY AND DEFAULT JUDGMENTS.

Bound

THE FEDERAL QUESTIONS WERE PRESENTED FOR DETERMINATION TO THE U. S. COURT OF APPEALS, IN :

THE TIMELY APPLICATION FOR MANDAMUS,

THE TIMELY APPEAL, BY BRIEF,

THE ORAL ARGUMENTS, HEARING DAY 10 OCT. 1966,

THE WRITTEN ORAL ARGUMENTS SUBMITTED TO THE JUSTICES ON HEARING DAY, 10 OCT. 1966,

AND BY, A TIMELY MOTION IN ARREST OF JUDGMENT A N D THE JUDGMENT IS VOID A N D MOTION TO REVIEW THE DISTRICT COURT RECORD FOR PURPOSES OF CORRECTION BY REHEARING.

* * * *

TO THE UNITED STATES SUPREME COURT

In every proceeding mentioned, in every State and Federal Court, the STATE and FEDERAL QUESTIONS presented for determination were :

"D E N I E D"

The Court will find NORTHWEST HOLDING COMPANY has been SILENT, on all issues.

The Court will find the SIX CONSOLIDATED CASES have been SILENT on the issue, RIGHT OF POSSESSION.

REASONS FOR ALLOWANCE OF THE WRIT.

The decision of the U.S. Court of Appeals, affirms a summary judgment of dismissal, in the U. S. District Court, and finds, "The action of the District Court in dismissing the case for want of jurisdiction is so obviously correct that without further comment such action is affirmed."

THE REASONS FOR ALLOWANCE OF THE WRIT ARE AS FOLLOWS:

1. The dismissal is in direct conflict with U. S. AMENDMENT FOUR, and the principles established by the COMMON LAW, and the adjudication in 119 U. S. 608 (1866), Iron Mountain & Helena R.R. v. Johnson. THE RIGHT OF POSSESSION.

U.S. AMENDMENT FOUR, contains THE FEDERAL RIGHTS, "The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, AND no warrant shall issue but upon probable cause..."

The principles established by the COMMON LAW, are found in 27 ARKANSAS 46, and 27 ARKANSAS 50, Simmons v. Robertson, and 9 COWEN'S 778 (N.Y. 1829), and 327 US 678 (1946) BELL et al v. HOOD et al.

The NORTHWEST ORDINANCE OF 1787, SEC. 14, ARTICLE II., contains a Federal Right; "The inhabitants of the said territory shall always be entitled to the benefits...of judicial proceedings according to the course of the common law."

The principles of the RIGHT OF POSSESSION, are clearly laid down in 119 U.S. 608 (1887), Iron Mountain & Helena R.R. v. Johnson.

"...at the foundation of all suits of forcible entry and detainer, that the law will not sanction or support a possession acquired by violence, but will, when appealed to in this form of action, compel the party who thus gains possession to surrender it to the party whom he dispossessed, without inquiring which party owns the property or has the legal right to the possession."

122 U.S. 597 (1878) Denver and Rio Grande Railway v. Harris.

AFFIRMED AND APPLIED, Iron Mountain and Helena Railroad v. Johnson, 119 U. S. 608.

2. The dismissal is in direct conflict with U. S. AMENDMENT 14, the "due process clause," and the principles established by the COMMON LAW, "There shall be a remedy for every wrong" ; the State and Federal Court Rules, "the just, speedy and inexpensive determination of every action" ; and Statutes 28 USC 1441, Actions Removable Generally; 42 USC 1983, 28 USC 1443; and adjudicated Cases * * on THE RIGHT to a speedy remedy at law in the State and Federal Courts, where State and Federal C I V I L R I G H T S are concerned.

* * Bell v. Hood, 327 U.S. 684

2. Where a complaint in a federal court is so drawn as to seek recovery directly under the Constitution or laws of the United States, the court must entertain the suit, except: (a) where the alleged claim appears to be immaterial and made solely for the purpose of obtaining jurisdiction, or (b) where it is wholly insubstantial and frivolous. P. 682.

3. Whether the complaint states a cause of action on which relief could be granted is a question of law which must be decided after, and not before, the court assumes jurisdiction. P. 682.

A statute is to be interpreted not only from its express language, but also with the view of effectuating its purpose of overcoming the wrong to which it is directed and affording a remedy therefor. In doing so it is proper to consider the object which the Congress sought to accomplish and the reasons for and the circumstances leading to its enactment. Any construction which impairs, nullifies or defeats the congressional purpose or intent must be avoided (Helvering v. Hammel, 311 U.S. 504; Gooch v. United States, 297 U.S. 124; Trotter v. Tennessee, 290 U.S. 354).

A statute is not to be construed in such manner as to render it ineffective or inefficient or to cause public injury (United States v. Powers, 307 U.S. 214).

A statute speaks just as plainly by inference as in any other manner, and that which is implied by its terms is as much a part thereof and is as effectual as that which is expressed (Luria v. U.S. 231 U.S. 9)

A statute confers by implication all powers necessary for the exercise thereof (So. Carolina v. United States, 199 U.S. 437).

IN THE CASE AT BAR :

The U. S. Court of Appeals attempted to rest the decision by alleging the lack of jurisdiction. But, its holding does not rest on an adequate Constitutional or Statutory ground, because of the LACK OF ANY FAIR OR SUBSTANTIAL SUPPORT WHATSOEVER.

The procedures adopted by the State and Federal Courts should not be allowed to defeat Federal and State Rights under the name of "long established local practice", where the RIGHTS were plainly and reasonably made.

This is a case where EXEMPT HOMESTEAD PROPERTY, has by direction of the Court, under "color of law", been S O L D by the SHERIFF, who personally KNEW the HOMESTEAD OCCUPANTS, and, under "color of law" ;

The HOMESTEAD PREMISES was INVADED and SEIZED by FORCE, ORGANIZED VIOLENCE and TERROR, together with ALL OF THE LIFELONG EXEMPT PERSONAL AND HOUSEHOLD POSSESSIONS THEREIN.

ALL OF THE LIFELONG EXEMPT PERSONAL AND HOUSEHOLD POSSESSIONS WHICH WERE SEIZED, WERE S O L D on JUNE 12, 1962, "to satisfy a warehouseman's lien", OVER THE OBJECTION OF THE OWNERS, EVANSON-ROSSO, BY THE SHERIFF, who personally KNEW the Owners.

The "PURCHASER, MOHAWK TRANSFER AND STORAGE COMPANY", by President HERMAN J. LADIN, who was aware of the INVASION and SEIZURE; WHO, personnaly KNEW of the OBJECTION, and personally COMMUNICATED with the Owners; and by oral agreement on JUNE 12, 1962, AGREED to NOTIFY PETITIONERS BEFORE selling the possessions to bidders of used furniture; and by TELEPHONE on _____ _____Mr. HERMAN J. LADIN, was told that PETITIONERS had not yet received any relief in Court; nevertheless, Mr. LADIN assured the PETITIONERS he would have our goods on the dock anytime we wanted it. PRES. HERMAN J. LADIN was served notices of PETITIONERS' Court proceedings.

The TENANTS, in portions of the HOMESTEAD PROPERTY, under their LANDLORD-HOMESTEAD-OWNER'S TITLE, have, in concert together with Others, wilfully AIDED in the accomplishment of the intended WRONG, by breaching their RENTAL CONTRACTS; DENYING their Landlord's Title; and ATTORNING to a Stranger, WILLIAM HOLMES, in the Interlocked action, AND SUBSEQUENTLY, to the RESPONDENT.

THE TENANTS HAVE NEVER SURRENDERED POSSESSION OF THE PREMISES TO THE HOMESTEAD OWNER, FROM WHOM THEY GAINED POSSESSION OF THE PREMISES.

THE RECORD CLEARLY SHOWS :

THAT FROM THE COMMENCEMENT OF the interlocked series of transaction, PETITIONERS have faithfully made every available effort for relief in the State and Federal Courts.

The relief sought is not available because, The HENNEPIN COUNTY DISTRICT COURT refused to set-aside judgments VOID UPON THEIR FACE, but instead had PAUL ROSSO summarily imprisoned for 10 days, because of the refusal to answer interrogatories before an employee of plaintiff's attorney. RULE 28.03.

A N D,
The MINNEAPOLIS CRIMINAL COURT ignored the PETITIONERS' timely ANSWER to the Complaint in Unlawful Detainer, and ignored Homestead Possession and Title, on hearing day, 26 SEPTEMBER 1961. (Minn. Constitution, Art. 1, Sec. 12 and Minn. St. CH. 510.)

A N D,
The MINNEAPOLIS CRIMINAL COURT "denied" the HOMESTEAD-LANDLORD the RIGHT OF POSSESSION from mere TENANTS and TRESPASSERS. (Minn. St. CH. 504. and 566.)

A N D,
The MINNESOTA SUPREME COURT denied an Application for Extraordinary Relief, WITHOUT a hearing, AND on APPEAL, the Minnesota Supreme Court stated': 265 Minn. 562 N.W. Holding Co. v. Evanson : "...They have stubbornly refused to acknowledge any fault in their own conduct despite two manifestly proper judgments against appellant Paul Rosso arising out of an assault and a breach of contract. In both proceedings he was represented by counsel who apparently could do little more than mitigate the damages he invited by his own wrongdoing. Appellants have refused to face reality or heed persistent admonitions to retain counsel. From the record it appears entirely likely that these premises were indeed the appellants' homestead and as such should have been exempt from execution had they acted diligently to assert their rights...."

The U. S. District Court summarily disposed of the matter alleging lack of jurisdiction.

The U. S. Court of Appeals affirmed the U. S. District Court.

C O N C L U S I O N

CERTIORARI does lie to review irregularities and non compliance with law where manifest injustice has been done.

The undisputed facts are presented by the CERTIORARI RECORD, that clearly show a plain, speedy, adequate remedy at law was arbitrarily and unlawfully denied PETITIONERS.

CERTIORARI in the interest of justice, should not be denied or annuled, because the State and Federal Courts would NOT CONSIDER the MERITS of PETITIONERS' CLAIMS for Affirmative Equitable Relief in accordance to the Law of the Land.

The extraordinary circumstances of the illegal INVASION and SEIZURE under "color of law", of the HOMESTEAD PROPERTY, together with the LIFELONG

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EXEMPT PERSONAL AND HOUSEHOLD POSSESSIONS, before scheduled Court Hearings were held, and while a Temporary Injunction was in force, justifies the granting of the PETITION FOR CERTIORARI.

82 S.CT. 248, 251 (1961) Garner v. Louisiana

362 U.S. 199 (1959) Thompson v. Louisville

THE U. S. SUPREME COURT DISAVOWS THAT IT LOOKS AT THE SUFFICIENCY OF THE EVIDENCE TO JUSTIFY A CONVICTION, BUT IT HAS RECENTLY HELD ON TWO OCCASIONS THAT THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT IS VIOLATED WHERE THE RECORD IS "SO TOTALLY DEVOID OF EVIDENTIARY SUPPORT".

82 S.CT. 917, 923 Coppedge v. United States

WHEN SOCIETY ACTS TO DEPRIVE ONE OF ITS MEMBERS OF HIS LIFE, LIBERTY OR PROPERTY, IT TAKES ITS MOST AWESOME STEPS. NO GENERAL RESPECT FOR, NOR ADHERENCE TO, THE LAW AS A WHOLE CAN WELL BE EXPECTED WITHOUT JUDICIAL RECOGNITION OF THE PARAMOUNT NEED FOR PROMPT, EMINENTLY FAIR AND SOBER CRIMINAL LAW PROCEDURES. THE METHODS WE EMPLOY IN THE ENFORCEMENT OF OUR CRIMINAL LAW HAVE APTLY BEEN CALLED THE MEASURES BY WHICH THE QUALITY OF OUR CIVILIZATION MAY BE JUDGED.

4TH ED. BLACK'S LAW DICTIONARY, 382

CONSOLIDATION OF ACTIONS

It means the merging of two or more actions into one so that they lose their separate identity, WHILE in trial of "several actions together" each retains its separate character and requires the entry of a separate judgment.

200 Minn. 299 Ramswick v. Messerer

164 A 132, 134, 107 Reeves v. Pa. Gas Works Co.

249 NYS 33, 36; 4 F Supp 25, 30 Natl. Union Fire Ins. Co. v. Chesapeake Ry. Co.

4TH ED. BLACK'S LAW DICTIONARY, 382

CONSOLIDATION RULE

The federal courts are authorised to consolidate actions involving a common question of law or fact.

FRCP, RULE 42.

239 F.Supp. 51 (D.C. Ill. 1965) Hazeltine Research, Inc. v. Zenith Radio Corp.

CONSPIRACY
Key 1

CHARACTER AND EFFECT OF CONSPIRACY ARE NOT TO BE JUDGED BY DISMEMBERING IT AND VIEWING ITS SEPARATE PARTS BUT ONLY BY LOOKING AT IT AS A WHOLE.

Register of Deeds, Hennepin County, Minnesota
THE FOLLOWING INSTRUMENT WAS TIMELY FILED :

INSTRUMENT # 3343527 FILE # 8305
BOOK 915 PAGE 404 IN VAULT FILED:
27 APRIL 1962

27 APRIL 1962

TO: The Register of Deeds Office, Hennepin County
County Courthouse, Minneapolis, Minnesota

HOMESTEAD NOTICE

This Notice is made pursuant to Minnesota Statutes Chapter 510.07.

Regarding : Homestead Property of Melba P. Evanson, located at 2324-2326 Central Avenue Northeast, Minneapolis 18, Minnesota.
(Lot 4, Block 9, Wilson's Rearrangement of Blocks 2,3,6,7,9,10,11,14,15,19,20,21,24,26,29,31,33,35, 37, 39, and 41 of East Side Addition to City of Minneapolis.)

The above described property is the Homestead Property of Melba P. Evanson and Gordon L. Evanson and family, and this Homestead Property is Our Home, and has not been abandoned.

HOMESTEAD PROPERTY OWNER

(NOTARIAL SEAL)
Witnesses:
Muta G.Buchholz
Geneva A. Reed

2324-2326 Central Avenue Northeast
Minneapolis 18, Minnesota
/s/ Melba P. Evanson
Melba P. Evanson
27 April 1962

- - - - - - - - -

MINN. ST. CH. 510.07 SALE OR REMOVAL PERMITTED; NOTICE.

THE OWNER MAY SELL AND CONVEY THE HOMESTEAD WITHOUT SUBJECTING IT, OR THE PROCEEDS OF SUCH SALE FOR THE PERIOD OF ONE YEAR AFTER SALE, TO ANY JUDGMENT OR DEBT FROM WHICH IT WAS EXEMPT IN HIS HANDS. HE MAY REMOVE THEREFROM WITHOUT AFFECTING SUCH EXEMPTION,

IF HE DO NOT THEREBY ABANDON THE SAME AS HIS PLACE OF ABODE. IF HE SHALL CEASE TO OCCUPY SUCH HOMESTEAD FOR MORE THAN SIX CONSECUTIVE MONTHS HE SHALL BE DEEMED TO HAVE ABANDONED THE SAME UNLESS, WITHIN SUCH PERIOD, HE SHALL FILE WITH THE REGISTER OF DEEDS OF THE COUNTY IN WHICH IT IS SITUATED A NOTICE, EXECUTED, WITNESSED, AND ACKNOWLEDGED AS IN THE CASE OF A DEED, DESCRIBING THE PREMISES AND CLAIMING THE SAME AS HIS HOMESTEAD. IN NO CASE SHALL THE EXEMPTION CONTINUE MORE THAN FIVE YEARS AFTER SUCH FILING, UNLESS DURING SOME PART OF THE TERM THE PREMISES SHALL HAVE BEEN OCCUPIED AS THE ACTUAL DWELLING PLACE OF THE DEBTOR OR HIS FAMILY.

83 S.Ct. 822 (1963) Fay v. Noia

9. Courts Key 495

STATE COURTS, EQUALLY WITH FEDERAL COURTS, ARE CHARGED WITH DUTY OF PROTECTING AN ACCUSED IN ENJOYMENT OF HIS CONSTITUTIONAL RIGHTS.

16. Judgment Key 485

VOID JUDGMENTS MAY BE COLLATERALLY IMPEACHED.

17. Constitutional Law Key 271

CONVENTIONAL NOTIONS OF FINALITY IN CRIMINAL LITIGATION CANNOT BE PERMITTED TO DEFEAT MANIFEST FEDERAL POLICY THAT FEDERAL CONSTITUTIONAL RIGHTS OF PERSONAL LIBERTY ARE NOT TO BE DENIED WITHOUT FULLEST OPPORTUNITY FOR PLENARY FEDERAL JUDICIAL REVIEW.

20. Constitutional Law Key 257

DUE PROCESS DENIED IN PROCEEDING LEADING TO CONVICTION IS NOT RESTORED JUST BECAUSE STATE COURT DECLINES TO ADJUDICATE THE CLAIMED DENIAL ON THE MERITS.

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PETITIONERS PRAY, The UNITED STATES SUPREME COURT, for the reasons herein above stated, CORRECT ERRORS OF LAW WHICH ARE MATERIALLY HARMFUL; and COMPEL the RETURN of the HOMESTEAD PROPERTY, together with ALL OF THE LIFELONG EXEMPT PERSONAL AND HOUSEHOLD POSSESSIONS; and REDRESS THE VIOLATIONS AND DEPRIVATIONS; and GRANT AFFIRMATIVE EQUITABLE RELIEF.

Respectfully submitted,

Paul Dan Rosso

PAUL DAN ROSSO

Melba P. Evanson

MELBA P. EVANSON
7 ORTMAN STREET SOUTHEAST
MINNEAPOLIS, MINNESOTA

PAUL DAN ROSSO, Pro se
7 Ortman Street Southeast
Minneapolis, Minnesota, 55414

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 18,319.

Gordon Evanson, et al., Appellants,

vs.

Northwest Holding Company, a Minnesota Corporation, Appellee.

Appeal from the United States District Court for the District of Minnesota.

[November 15, 1966.]

Before VOGEL, Chief Judge, MATTHES, Circuit Judge, and DUNCAN, Senior District Judge.

PER CURIAM.

This "protracted and unhappy litigation" began in 1961 as an unlawful detainer action in Municipal Court in the City of Minneapolis, Minnesota. At all times and in all courts the appellants have spurned the suggestions that they employ counsel and have insisted on appearing on a *pro se basis*. For details regarding the litigation in the Minnesota courts see *Northwest Holding Company* v. *Evanson*, 1963, 265 Minn. 562, 122 N.W.2d 596. In dismissing that appeal, the Supreme Court of Minnesota,

after patiently reciting facts from the record, stated at page 602 of 122 N.W.2d:

> "This has been unusual and unfortunate litigation. The appellants have brought on themselves great hardship, severe economic loss, and needless anguish for which they now appear to have no remedy. They have stubbornly refused to acknowledge any fault in their own conduct despite two manifestly proper judgments against appellant Paul Rosso arising out of an assault and a breach of contract. In both proceedings he was represented by counsel who apparently could do little more than mitigate the damages he invited by his own wrongdoing. Appellants have refused to face reality or heed persistent admonitions to retain counsel. From the record it appears entirely likely that these premises were indeed the appellants' homestead and as such should have been exempt from execution had they acted diligently to assert their rights. Although in good conscience it might have been proper for these creditors to satisfy their judgments out of the Central Avenue property, overriding public policy would have prevented it. However, at most, they were entitled to only $8,100. Nevertheless, by levying execution and securing a decree of registration, William Holmes has obtained real estate worth approximately $35,000 to satisfy claims amounting to less than one-fourth of that amount. Holmes' acquisition has been euphemistically described as a 'windfall.' It is difficult to draw the exact line between what is the legitimate assertion of a client's rights and what amounts to an unfair overreaching of his adversary. Wherever that line may be, the gross injustice which has resulted from exploiting the improvidence of these appellants has brought little credit to the legal profession."

Subsequent to the adverse determinations by the Supreme Court of Minnesota this action was commenced by the losing parties in the United States District Court for the

District of Minnesota, to "Review the Judgment of the Minnesota Supreme Court entered 21 June 1963; and Review the ORDER denying the Motions for Enlargement of Time with Affidavit for PETITION FOR REHEARING, and the PETITION FOR REHEARING denied 22 November 1963, entered in the above entitled action". Holding that "Obviously, this Court has no jurisdiction to entertain petitioners' petition to review this decision of the Supreme Court of the State of Minnesota or any of the subsequent orders therein", Judge Nordbye granted respondent's motion to dismiss, such order being dated January 15, 1964.

On April 16, 1964, Judge Nordbye entered the following order:

> "Plaintiffs have filed motions for a writ of error coram nobis and/or for a bill of review apparently directed to the orders of this Court dated January 15, 1964, and March 16, 1964. The motions came on for hearing on April 13, 1964, and were submitted by plaintiffs on the record filed in support thereof.
>
> "There is no merit or substance to the motions. They are frivolous, and they will be, and each of them is, dismissed. It is so ordered."

On June 11, 1964, Judge Nordbye entered an order denying a motion for a rehearing of plaintiffs' motion for writs of error coram nobis and/or for bill of review. The record in the District Court discloses literally hundreds of pages of motions of various and sundry kinds, all aimed at trying to obtain the relief ultimately denied by the Supreme Court of Minnesota in 122 N.W.2d 596, supra.

Finally, on December 20, 1965, Judge Nordbye entered the following order:

> "This proceeding has been pending for almost two years in this Court, and notwithstanding that the

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Court has heretofore dismissed the action for lack of jurisdiction and ruled adversely to the plaintiffs on motions for rehearing and default judgment, and in some five or more motions seeking relief by way of so-called writs of coram nobis and/or bills of review, plaintiffs persist in filing frivolous motions. Clearly, the time for a final cessation of the filing herein of further documents by the plaintiffs is long past due.

"The Clerk of this Court, therefore, is directed and ordered not to accept for filing from plaintiffs, or from anyone in their behalf, further motions, pleadings, or any other documents of whatever description in the above proceeding. All motions heretofore filed and as to which no orders have been made by this Court are denied with prejudice.

"This order does not assume to prevent plaintiffs from proceeding by way of appeal to the Eighth Circuit Court of Appeals from any order of this Court if any right to appeal remains under the law."

Thereafter appeal was taken to this court. The action of the District Court in dismissing the case for want of jurisdiction is so obviously correct that without further comment such action is affirmed.

A true copy.

Attest:

Clerk, U. S. Court of Appeals, Eighth Circuit.

JUDGMENT

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No. 18, 319. September Term, 1966.

Gordon Evanson, Melba P. Evanson,
Paul Dan Rosso and Paulina Rosso,

Appellants,

vs.

Northwest Holding Company, a
Minnesota Corporation.

APPEAL FROM the United States District Court for the .D.....District of Minnesota.

THIS CAUSE came on to be heard on the record from the United States District Court for the .D..... District of Minnesota, and was argued for appellants

ON CONSIDERATION WHEREOF, it is now here ordered and adjudged by this Court, that the judgment of the said District Court, in this cause, be, and the same is hereby, affirmed.

November 15, 1966.

ound .

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT
September Term, 1966

No. 18319

Gordon Evanson, Melba P. Evanson,
Paul Dan Rosso and Paulina Rosso,
Appellants,

vs.

Northwest Holding Company.

Appeal from the United States District Court
for the District of Minnesota.

Appellants' "Motion in Arrest of Judgment" and rehearing filed in this cause having been considered, it is now here ordered by this Court that the same be, and it is hereby, denied.

November 29, 1966.

Tightly Bound

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JOHN F. DAVIS, CLERK

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IN THE

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1966

No. 1101

GORDON L. EVANSON AND MELBA P. EVANSON
PAUL DAN ROSSO AND PAULINA M. ROSSO,
PETITIONERS,

VS.

NORTHWEST HOLDING COMPANY,
A MINNESOTA CORPORATION,
RESPONDENT.

PETITION FOR A WRIT OF CERTIORARI

To the United States Court of Appeals
for the Eighth Circuit.

PAUL DAN ROSSO
MELBA P. EVANSON
7 Ortman Street Southeast
Minneapolis, Minnesota, 55414

In Their Own Behalf
PETITIONERS

4 APRIL 1966

Mr. Robert C. Tucker, Clerk
United States Court of Appeals
For the Eighth Circuit
St. Louis, Missouri 63101

Dear Mr. Tucker:

Re: Gordon Evanson et al vs.
Northwest Holding Co., a Minn. Corp.

No. 18319 Civil - Sept. 1965 Term

Enclosed please find five (5) typewritten copies of APPELLANTS' BRIEF.

Service by Certified Mail No. 962545, was made upon Mr. Arnold I. Feinberg, Attorney for N. W. Holding Co., a Minn. corp.

Attached, please find Proof of Service.

Respectfully submitted,

PAUL DAN ROSSO
7 Ortman Street Southeast
Minneapolis, Minn., 55414

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT
ST. LOUIS, MO. 63101
ROBERT C. TUCKER, CLERK

April 6, 1966

Mr. Paul Dan Fosso
7 Ortman Street Southeast
Minneapolis, Minnesota, 55414

Re: No. 18319 Gordon Evanson, et al.
vs.
Northwest Holding Company.

Dear Sir:

I have today received and filed five typewritten copies of brief for appellants in the above-entitled cause. Receipt for Certified Mail, addressed to Attorney Arnold I. Feinberg has also been received.

Very truly yours,

/s/ Robert C. Tucker
Robert C. Tucker
Clerk

K

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

September Term 1965

NO. 18319 - Civil

GORDON EVANSON, MELBA P. EVANSON,
PAUL DAN ROSSO AND PAULINA ROSSO

Appellants,

vs.

NORTHWEST HOLDING COMPANY, A MINNESOTA
CORPORATION,

Appellee.

APPEAL FROM UNITED STATES DISTRICT COURT FOR THE
FOURTH DISTRICT OF MINNESOTA.

BRIEF FOR APPELLANTS.

PAUL DAN ROSSO
7 ORTMAN STREET SOUTHEAST
MINNEAPOLIS, MINNESOTA, 55414
4 APRIL 1966.

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT
September Term 1965

NO. 18319 - Civil

GORDON EVANSON, MELBA P. EVANSON,
PAUL DAN ROSSO AND PAULINA ROSSO,
Plaintiff-Appellant,

vs. 4-63 Civ. 457

NORTHWEST HOLDING COMPANY, A
MINNESOTA CORPORATION,
Defendant-Appellee.

APPEAL FROM UNITED STATES DISTRICT COURT FOR THE
FOURTH DISTRICT OF MINNESOTA.

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3. The Court will find the SIX CONSOLIDATED CASES have been SILENT on the issue, RIGHT OF POSSESSION. 101A

CASES.

Bess v. Griffin et al 234 SWP 2d 978 (1950)

HELD that the complaint failed to state a cause of action in unlawful detainer.

2. Landlord and tenant Key 29(8)
In action by purchaser for possession of leased premises, failure of petition to show relation of landlord and tenant and the terms of the lease under which defendant held the property or the exact amount of rent due, prevented plaintiff from recovering possession of premises.
Mo. R.S.A. § 2994.

7. Forcible entry and detainer Key 5, 11(1)
Landlord and tenant Key 290(1)
Unlawful detainers can be a willful holding over without force, after expiration of a term, or a wrongful disseisin without force of prior possessor, and in first instance a demand in writing for delivery of possession is required before institution of action and in second instance a demand is indispensable, and also in second instance relation of landlord and tenant is unnecessary.
Mo. R.S.A. § 2833.

Cotton v. White 131 Arkansas 273 (1917)

2. Adverse possession - notoriety - agreement to attorn.

5. Tax sales - void deed - One holding possession of land under a void tax deed, holds as a trespasser.

6. Ejectment - against trespasser holding under void tax deed.

Dickie vs. Sewer Improvement District et al
328 F 2d 296 (1964 CA 8)

1. Judgment Key 828(3.20)
Federal district court was neither required nor entitled to give full faith and credit to state court decree if it was constitutionally void.

4. Courts Key 366(1)
Judgment Key 828(3.22)
Construction of Arkansas statutes is for Arkansas courts, and such construction is not a matter of federal concern if it does not abortively deny recognition to and vindication of plainly vested legal rights so as to violate due process or equal protection under Fourteenth Amendment. Ark. Stats. § 20-446.1; U.S.C.A. Const. Amend. 14.

Haase Jr. et al v. Lamia et al. 40 Cal. Rptr.518 (1964)

Forcible Entry and Detainer Key 32.
Judgment Key 747(6)

1. In action of unlawful detainer court is without jurisdiction to try any issue except that involving possession of real property and judgment rendered by such court in such action cannot affect title to real property, nor is any finding of fact by the court res adjudicata between parties in subsequent proceeding where issue involved is title to the property.

At Page 520. ...defendant obtained a judgment for and secured possession of the premises. Plaintiffs appeal from this judgment, to the appellate department of the superior court was not successful, the court declaring that the evidence received as to title and ownership was admissable only for the limited purpose of assisting the court in exercising its discretion to treble the damages found to be due. (323 P. 2d 557).

Sisco et al, v. Paulson 232 Minn. Reports 250, at 251 (1950)

So far as exempt property is concerned, there are no creditors within the meaning of the statute.

Hennessey v. Pederson 28 Minn. 461 at 463 (1881)

....the judgment of restitution must be based upon a finding, which in its turn must be based upon inquiry, upon a hearing, upon a trial, of the complaint. This cannot mean anything less than that the complainant must prove his case, or, in other words, must prove enough of his complaint to make out his right to restitution. To this end he must adduce evidence, and, in the absence of it, the magistrate has no right to enter judgment for the restitution sought....

Van Dresor v. King 75 Am. Dec. 643 (Pa. 1859)

Case as well as trespass lies against officer for selling defendant's property under execution, in disregard of his claim to the benefit of the exemption law.

Wilson et al, v. First Nat. Bank of Mankato 239 Minn. 550 (1953)

Homestead-exemption from process-application to rentals.

1. Rentals derived from homestead property, part of which is occupied by the owner thereof, are exempt from process under M.S.A. 510.01.

TEXTBOOKS.

24 Am. Jur. Fraudulent Conveyances, Sec. 109.

Minnesota Practice Methods Black-Moody-Patton Section 103 Matters which the Abstract does not cover.

Patton on Titles - West Publ. Co. Sec. 522 Transfer of Title by Decree of Court.

DIGEST.

Dunnell Minn. Digest Volume 5, Page 485. Sec. 2679 A Means of Transferring Title.

Dunnell Minn. Digest, 3rd Ed.
HOMESTEAD KEY 180 Fraudulent conveyance.

Even conveyance fraudulent as to creditors does not deprive property of Homestead Exemption. Minn. Const. Art. 1, Sec. 12, M.S.A. Sec. 510.01.

QUESTION: 265 Minn. 562 N.W. Holding Co., vs. Evansons et al

HOW did an action in Unlawful Detainer,

deprive the property of Homestead Exemption?

RECORDS KEY 9(1) In General. 265 Minn. 562 N. W. Holding v. Evansons et al

Upon filing of answer with clerk in land registration proceeding in conformity with statute, further proceedings were governed by rules pertaining to ordinary civil actions.

N O T E : The proceedings WERE NOT in conformity with Statute 508.02, NOR WERE the rules observed - Follow-Up Service, RULE 38.03, and File with Proof of Service, RULE 4.06.

STATUTES.

MINNESOTA CONSTITUTION, ARTICLE I, SECTIONS 2, 8, and 12.

MINNESOTA STATUTES CHAPTER

504. LANDLORDS AND TENANTS

508. CONVEYANCING, REGISTRATION

510. HOMESTEAD EXEMPTIONS

550.37 PROPERTY EXEMPT

566. FORCIBLE ENTRY AND UNLAWFUL DETAINER

UNITED STATES CONSTITUTION, ARTICLE IV, SEC. 1, 2, and 4, ARTICLE VI, AMENDMENTS 4, 5, 6, 7, 9, and 14.

28 USC 1343 CIVIL RIGHTS AND ELECTIVE FRANCHISE

28 USC 1356 SEIZURES NOT WITHIN ADMIRALTY AND MARITIME JURISDICTION.

28 USC 1441 ACTIONS REMOVABLE GENERALLY

28 USC 1443 CIVIL RIGHTS CASES

28 USC 1738 STATE JUDICIAL PROCEEDINGS

28 USC 2001 et seq.; JUDICIAL SALES STATUTE

42 USC 1983 et seq.

18 USC Sections 241, 242, 286, 287, 371, 495, 641, 656, 1001, 1018, 1021, 1506, 2071, 2073.

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT.
September Term 1965

NO. 18319
Civil.

GORDON EVANSON, MELBA P. EVANSON,
PAUL DAN ROSSO AND PAULINA ROSSO,

APPELLANTS,

VS.

NORTHWEST HOLDING COMPANY, A
MINNESOTA CORPORATION,

APPELLEE.

APPEAL FROM UNITED STATES DISTRICT COURT FOR THE

FOURTH DISTRICT OF MINNESOTA.

BRIEF FOR APPELLANTS.

INTRODUCTION

I. HOMESTEAD PREMISES.

2324-2326 Central Avenue Northeast, Minneapolis 18, Minnesota, is the HOMESTEAD PREMISES of the DAN ROSSO FAMILY, since the year 1919, in quiet, exclusive,

notorious, continuous, and uninterrupted possession.

Said property being legally described as:

LOT 4, BLOCK 9, Wilson's Re-arrangement of Blocks 2, 3, 6, 7, 9, 10, 11, 14, 15, 19, 20, 21, 24, 26, 29, 31, 33, 35, 37, 39 and 41 of East Side Addition to City of Minneapolis.

INTRODUCTION

II. HOMESTEAD OCCUPANTS.

OCCUPANTS:

2326 Central Ave. Apartment — Mrs. Paulina Rosso (wife of Dan Rosso, deceased).

Paul Dan Rosso (Son of Dan and Paulina Rosso).

(DAN ROSSO operated a Barbershop for 35 years in the Homestead Premises, prior to his retirement).

2324 Central Ave. Apartment — Mrs. Gordon Evanson (Melba - Daughter of Dan and Paulina Rosso)

Mr. Gordon L. Evanson
David Evanson (Son of Gordon and Melba Evanson)
Diana Evanson (Daughter of Gordon and Melba Evanson)

STORE TENANTS:

2326 Central Ave. Mr. Harrison H. Weese, Pres., Accurate Adv. Carriers Co., breached his contract to pay rent of $125.00 per month on JULY 1, 1961, ; attorned to a stranger, and moved out after the Minn. Supreme Court Hearing, 6 December 1963.

2324 Central Ave. Mrs. Florence Mady, Owner, Mady's Place, breached her contract to pay rent of $142.00 per month, on OCTOBER 1, 1961, attorned to a stranger, and still holds possession of the premises.

PORTION OF REAR HOMESTEAD LOT Mr. William Hirsch, Owner-Partner, Anchor Laundry Co., a Minnesota Partnership, breached his contract to pay rent of $15.00 per month on DECEMBER 1, 1961, attorned to a stranger, and still holds possession of the portion of rear homestead lot.

III. UNLAWFUL ENTRY OCCUPANTS.

2324 Central Ave. Apartment Mr. and Mrs. Kenneth Mell, Jr., entered the Homestead premises about August 1962, and moved out after the Removal Petition was filed in Fed. Dis. Court. Subsequently, different parties have occupied the apartment.

2326 Central Ave. Apartment Mr. and Mrs. Albert A. Poin, entered the Homestead premises about August 1962, and are still in occupancy.

INTRODUCTION

IV. ADJOINING PROPERTY.

The Homestead Property, is located between property owned by the FIDELITY SECURITIES & INVESTMENT CO., A MINN. CORP., adjoining on one side, and ANCHOR LAUNDRY CO., A MINN. PARTNERSHIP, adjoining on the other side.

V. FIDELITY SECURITIES CLAIM OF OWNERSHIP.

FIDELITY SECURITIES & INV. CO., A MINN. CORP., is the Owner and operator of FIDELITY STATE BANK, now called the FIDELITY BANK AND TRUST COMPANY, 2338 Central Avenue N. E., Minneapolis.

On 1 JUNE 1962, in Minneapolis Municipal Court, it was learned that FIDELITY SECURITIES & INV. CO., presently claims to be the owner of the DAN ROSSO HOMESTEAD, through an exchange of property with one of its attorneys, Mr. FRANK M. FUDALI, 2408 Central Ave. N. E., Mpls.
(S. CT. RECORD, P. 26A) Some of the members of the Board of Directors, and some of the Stockholders, personally knew Dan Rosso and Family as the Homestead Owner and Occupants, some, for as long as 42 years.

VI. ATTORNEY FRANK M. FUDALI'S CLAIM OF OWNERSHIP.

Attorney Frank M. FUDALI had a law office within a block of the Dan Rosso Homestead for 20 years, and personally knew Dan Rosso and Family.

On 27 DECEMBER 1961, Attorney FUDALI claims to have purchased the Homestead premises from N. W. HOLDING CO., A MINN. CORP., for the purpose of trading buildings with FIDELITY SECURITIES & INV. CO. The Homestead building was traded for the building his law office is now located, 2408 Central Ave. N. E. (S. CT. RECORD, P. 43(a).

VII. N. W. HOLDING COMPANY'S CLAIM OF OWNERSHIP.

On 18 AUGUST 1961, N. W. HOLDING CO., A MINN. CORPORATION, claims to have purchased the DAN ROSSO HOMESTEAD, from a "Torrens Title Owner", WILLIAM HOLMES.

On 18 AUGUST 1961, N. W. HOLDING CO., obtained a $28,000 mortgage from TWIN CITY FEDERAL SAVINGS & LOAN ASSOCIATION, Minneapolis, secured upon the Torrens Title. (S. CT. RECORD, P. 43(a).

On 18 AUGUST 1961, President of N. W. Holding Co., Mr. ISRAEL MIRVISS, sent a certified letter to Gordon Evanson and Melba P. Evanson, to vacate in seven (7) days. (S. CT. RECORD, P. 29).

On 21 AUGUST 1961, Answer was made to ISRAEL MIRVISS, by Certified Mail # 541200.

"August 21, 1961

"Mr. Israel Mirviss
400 Second Ave. So.
Minneapolis 1, Minnesota

"Dear Sir:

Regarding your letter of August 18, 1961, notifying us to vacate our premises.

We are the absolute owners of the property located at 2324--26 Central Ave. N.E., and we have not sold this property, nor do we intend to do so.

In regard to the Northwest Holding Company directing you to evict us, this is clearly erroneous, because we, the undersigned, are the owners.

Please advise the Northwest Holding Company at once, that we are the owners of the property which your letter refers to.

Yours truly,
/s/ Melba P. Evanson
Melba P. Evanson
/s/ Gordon Evanson
Gordon Evanson OWNERS
2324 Central Ave. N.E.
Minneapolis 18, Minnesota"

CERTIFIED MAIL 541200
RETURN RECEIPT REQUESTED.
Rec'd: 8-22-61.
/s/ Israel Mirviss

On 19 SEPTEMBER 1961, N.W. HOLDING CO., by Attorney ARNOLD I. FEINBERG, instituted a spurious action in Unlawful Detainer against the Homestead Owners, EVANSONS and ROSSOS. (S.CT. RECORD, P. 1).

NOTE: N.W. Holding Co., DID NOT bring action against the Tenants in possession under the Landlord's Title, namely tenants WEESE, MADY and HIRSCH.

On 26 SEPTEMBER 1961, the Decision and Order of the Mpls. Municipal Court, Judge BRUCE C. STONE, WITHOUT JURISDICTION, was entered WITHOUT FINDINGS in the unlawful detainer actions. (S.CT. RECORD, P.55)

On 29 SEPTEMBER 1961, MELVIN C. GITTLEMAN, as President of NATIONAL PROPERTIES, Minneapolis, mailed a letter to MADY'S PLACE, in the Homestead Premises, which states in part:

"Please be advised that we are the management agent and building manager for the new owners of the property in which you are conducting your business on Central Avenue...."
(S. CT. BRIEF, P. 111).

The Tenants, Mrs. FLORENCE MADY, Mr. H. H. WEESE, and Mr. WILLIAM HIRSCH, who obtained possession under their Landlord's Title, the Homestead Owner, attorned to the stranger, through the advice of

Attorneys FRANK M. FUDALI, GEORGE KODADEK, JOHN DOUGHERTY, and MAURICE GROSSMAN. (S.CT. RECORD, P. 26(a).

NOTE: The spurious unlawful detainer actions were based upon a "mortgage", secured by a "Torrens Title", and as "owners", the N.W. Holding Co., was entitled to the right of possession from the Homestead Occupants, mere "tenants at sufferance", as described in the "Torrens Proceedings", which left the Homestead Owner's Title out of view.

THE COMPLAINTS IN UNLAWFUL DETAINER, DID NOT STATE A CAUSE OF ACTION AS REQUIRED BY STATUTE TO VEST THE COURT WITH JURISDICTION.

On 8 NOVEMBER 1961, a "Deputy Clerk" of Municipal Court, WITHOUT JURISDICTION, issued a Writ of Restitution, NOT SIGNED by a Judge, as required by Statute, WITHOUT FINDINGS, and WITHOUT stating the CAUSE OF ACTION before the Court of Inquiry. (S.CT. RECORD, P. 56). SEE: (S.CT. ANSWER TO RESPONDENTS MOTION TO DISMISS, Page 15 thru 29.)

On 21 NOVEMBER 1961, at 9:00 A.M., without notice, warning, or probable cause, MELVIN C. GITTLEMAN, Pres. of NATIONAL PROPERTIES, had approximately eight Minneapolis Policemen, attorneys, agents and employees of N.W. Holding Co., and with a sledgehammer, smashed and kicked open the Homestead property Apartment door of Gordon and Melba P. Evanson. Upon invading the Homestead property, Police Officer WALTER B. ERICKSON, directed the moving men from MOHAWK TRANSFER AND STORAGE CO., Minneapolis, and Others to take by FORCE, VIOLENCE and TERROR the HOMESTEAD PROPERTY and EXEMPT PERSONAL PROPERTY contained therein.

SEE: (S. CT. ANSWER TO RESPONDENTS MOTION TO DISMISS, P. 20 thru 24.)

On 21 NOVEMBER 1961, Attorney CARL O. WEGNER, obtained a Temporary Restraining Order from Henn. Cty. Dis. Court Judge JOHN A. WEEKS, and the Exempt Personal Property was returned to the Homestead apartment, crated, until the Court could rule on the matter.

On 27 NOVEMBER 1961, WITHOUT JURISDICTION, WITHOUT TIMELY APPLICATION, two days notice, and a hearing, Judge WEEKS "withdrew" his Restraining Order. A Court hearing was scheduled in Mpls. Municipal Court for 1 DECEMBER 1961 on the unlawful detainer proceedings, and a Hearing for Extraordinary Relief was scheduled 7 DECEMBER 1961, in Minnesota Supreme Court, CASE NO. 38634.

On 30 NOVEMBER 1961, at 9:00 A.M., without notice, warning, or probable cause, MELVIN C. GITTLEMAN again appeared, together with 20 to 30 Minneapolis Policemen, N.W. HOLDING CO. Agents and Employees; the moving men from MOHAWK TRANSFER AND STORAGE CO., together with Others, seized the HOMESTEAD by FORCE, VIOLENCE and TERROR, and took and carried away over 6,000 pounds of EVANSON'S Exempt Personal Property, lifetime possessions and continues to hold the same.

On 1 DECEMBER 1961, padlocks were placed on all doors. (SEE: ANSWER TO RESPONDENTS, P. 24 thru 28).

On or about 13 AUGUST 1962, (Prior to scheduled 6 DEC. 1962 Hearing in Minn. Supreme Court) N.W. Holding Co.'s Agents Took and Carried Away the

Homestead GARAGES and CONTENTS therein, on the Rear Lot of Premises, while unlawfully holding possession. The area is now used by FIDELITY BANK & TRUST COMPANY for customer parking.

On 10 JANUARY 1966, MELVIN C. GITTLEMAN, Pres. of NATIONAL PROPERTIES, and Owner of N. W. HOLDING CO., was sentenced by Federal District Judge GUNNER H. NORDBYE, to two (2) years in prison for rigging inflated loans at TWIN CITY FED. SAVINGS & LOAN ASSOC. with the assistance of four former association employees. The Judge rejected a plea for leniency, pointing out that Mr. Gittleman resorted to "bribery", in getting the extravagant loans.

JAMES C. CONDON, was TCFS & LA's Credit manager and was found guilty of knowingly letting Gittleman obtain loans through straw men and dummy corporations. Mr. Condon, the only defendant in the case who did not plead guilty, allegedly received some $6,000 from Mr. Gittleman. (From Mpls. Tribune, 11 Jan.1966).

VIII. MR. WILLIAM HOLMES' CLAIM OF OWNERSHIP.

On 8 AUGUST 1961, WILLIAM HOLMES, claimed to have obtained a Torrens Title to the Homestead Premises, in a LAND TITLE REGISTRATION PROCEEDING No. 14838, Hennepin County District Court in derogation of that of the Registered Homestead Owner, by simply leaving the Registered Owner's Title out of view.

The LAND TITLE REGISTRATION determined, there were

executions levied to satisfy judgments and a Sheriff Sale of the Homestead Property, for $2,500. pursuant to execution, and Mr. and Mrs. WILLIAM HOLMES are the fee owners.

IX. 208 EAST HENNEPIN AVENUE MPLS. BUILDING.

At 208 E. Henn. Ave., Mpls., is a Building containing a Store, Apartments, and Sleeping Rooms, and PAUL DAN ROSSO, is the licensed lodging house operator.

On or about 14 OCTOBER 1960, WILLIAM HOLMES also instituted a spurious Unlawful Detainer Action Case No. 32765, to gain possession of this 208 E. Hennepin Avenue Building. (S. CT. RECORD, P. 205.)

On 25 OCTOBER 1960, Mpls. Mun. Judge LUTHER SLETTEN, WITHOUT JURISDICTION, granted HOLMES "judgment". A Writ of Restitution was issued by a "Deputy Clerk of Court", WITHOUT JURISDICTION, not signed by a Judge, as required by Statute, WITHOUT FINDINGS, or WITHOUT stating the CAUSE OF ACTION before the Court of Inquiry.

On 7 DECEMBER 1960, WALTER B. ERICKSON, displaying a Mpls. Police Badge, WITHOUT JURISDICTION, tried to gain possession of the 208 E. Henn. Ave. Bldg., by yelling, "Get Out in 24 Hours", to PAUL ROSSO.

On 8 JUNE 1961, WALTER B. ERICKSON, together with C. W. ZANE, WITHOUT JURISDICTION, tried to find PAUL ROSSO to serve the second Writ of Restitution, Case No. 32765. (S.CT. ANSWER TO RESPONDENTS MOTION TO DISMISS, P. 13).

X. HENNEPIN COUNTY REGISTER OF DEEDS - REGISTER OF TITLES.

The Office of the Hennepin County Register of Deeds, and Register of Titles, is held by the same Officer.

On 27 DECEMBER 1961, the Register of Deeds, the late DONALD C. BENNYHOFF, signed a transfer of title, from N. W. HOLDING CO., to FRANK M. FUDALI; and RICHARD H. FUDALI. (S.CT. RECORD, P. 44a).

NOTE: Mr. BENNYHOFF personally knew DAN ROSSO, as the Homestead Owner of the premises. (S.CT. ANSWER TO RESPONDENTS, P. 30).

The present Register of Deeds, MR. BEN K. ALLISON, refused to file an Instrument, notorized AFFIDAVITS, as to the Ownership of Homestead Property, known as 2324 and 2326 Central Avenue N. E., Minneapolis. (SEE: ENVELOPE #6, filed with Dis. Ct. 4-63 Civ. 457). Mr. ALLISON personally knew DAN ROSSO & Family since the year 1917, and was a customer of Barber ROSSO all the years ROSSO was in business.

II. SUMMATION AND OPINIONS BELOW

1. JAMES LEDWEIN vs. PAUL ROSSO CASE NO. 532205
(Henn. Cty. District Court)

In LEDWEIN vs. ROSSO, a spurious $50,000 action for assault and battery, a Garnishment Summons was served on the FIDELITY STATE BANK, which still holds the Joint Savings Account of PAUL and PAULINA M. ROSSO, under the garnishment. (S. CT. RECORD, P. 157).

SEE: M.S. Ch. 570 Attachment, at 570.01 Allowance of writ. (Not in action for assault and battery.

M.S. Ch. 571.43 Garnishment Prohibited.

ANSWER WAS MADE by Attorney Samuel Segall, representing PAUL ROSSO.

NO FOLLOW-UP SERVICE was ever made to VEST the

(3) separate times on the trial calender and stricken.

On 12 JANUARY 1959, Attorney SAMUEL SEGALL, by telephone, told Paul Rosso to go to Court the following day, and bring $18.00 (S.CT. BRIEF, P.58)

THE OPINION of the Henn. County Dis. Court, Judge PAUL JAROSCAK, was NEVER MADE.

The Clerk, WITHOUT JURISDICTION, entered a judgment roll, BASED on a Taxation and Costs paper, prepared by Attorney SAMUEL SALITERMAN, representing LEDWEIN.

SEE: M.R.C.P., RULE 52 FINDINGS.

42 Minn. 457 Chickering & Sons vs. White

An order for judgment without findings cannot stand.

Judge PAUL Jaroscak did not even enter an "order for judgment".

EXECUTION WAS ISSUED AND RETURNED UNSATISFIED BY THE SHERIFF, TO THE CLERK OF COURT.

When execution is returned unsatisfied after 60 days from issuance, the case is closed, and the Court cannot levy again. Minn. St. Ch. 550.05; 6 NY 2d 35, 39.

On 20 MARCH 1959, Judge PAUL JAROSCAK, WITHOUT JURISDICTION, issued an ORDER to PAUL ROSSO, to appear on 10 APRIL 1959, before an employee of Plaintiff's Attorney, for Supplementary Proceedings. RULE 28.03 states:

> "No deposition shall be taken before a person who is a relative or EMPLOYE or attorney or counsel of any of the parties;..."

On 10 APRIL 1959, PAUL ROSSO served an Affidavit upon the employee of Attorney SAMUEL SALITERMAN, objecting to the Supplementary Proceedings. (S.CT. RECORD, P. 167).

Judge WILLIAM D. GUNN, WITHOUT JURISDICTION, signed an ORDER to Show Cause, that was served upon ROSSO.

In a dated 5 MAY 1959, ORDER, Judge ROLF FOSSEEN, WITHOUT JURISDICTION, ordered ROSSO to appear before the Attorney's Employee, AND TO AGAIN APPEAR before Judge FOSSEEN on 11 MAY 1959.

On 6 MAY 1959, a timely Motion and Affidavit was served by the Sheriff upon Plaintiff's Attorney and Judge FOSSEEN, entitled:

MOTION TO HAVE THIS ORDER TO SHOW CAUSE STRICKEN FROM THE CALENDAR

AND

AFFIDAVIT TO EXCUSE JUDGE ROLF FOSSEEN BECAUSE HE REFUSED TO OBSERVE AND IS NOT FAMILIAR WITH THE ISSUES UNDER DISCUSSION, NAMELY DISTRICT COURT RULES.

On 11 MAY 1959, ROSSO appeared before Judge FOSSEEN, and Plaintiff's Attorney RICHARD HUNEGS, stated to the Court ROSSO had not appeared for Supplementary Proceedings. Judge FOSSEEN asked ROSSO if he attended the proceedings, and when Rosso answered, "No, the Court has",...Judge FOSSEEN interrupted, and WITHOUT JURISDICTION, stated, "You are going upstairs to Hennepin County Jail for 10 days, if you don't pay $50.00 at that table right now".

PAUL ROSSO walked from the Courtroom without saying a word, was taken to the Henn. County Jail for 10 days, WITHOUT A WARRANT FOR ARREST OR A COMMITTMENT ORDER. (S. CT. RECORD, P. 174 and S. CT. BRIEF, Pages 67 thru 71).

SUMMATIONS AND OPINIONS BELOW

2. WILLIAM HOLMES vs. PAUL ROSSO, CASE NO. 533990 (Henn. Cty. Dis. Ct.)

In HOLMES vs. PAUL ROSSO, a spurious specific performance suit for $100.00, OR $1,100.

PAUL ROSSO MADE ANSWER.

(S. CT. RECORD, P. 134 (Answer)

(S. CT. RECORD, P. 127 (Bldg. Permit)

(S. CT. BRIEF, P. 45 thru 55.

In Minnesota, when ANSWER IS MADE, there is no proceeding pending in any court, UNTIL FOLLOW-UP SERVICE is made (RULE 38.03) and Filed with Proof of Service (RULE 4.06).

FOLLOW-UP SERVICE WAS NEVER MADE, TO VEST THE COURT WITH JURISDICTION.

Nevertheless, on 20 JANUARY 1958, Judge LESLIE ANDERSON, WITHOUT JURISDICTION, without notice of hearing, struck Defendant ROSSO'S ANSWER. The Clerk of Court FAILED to mail a copy of this Order to ROSSO. (RULE 77.04).

On 13 FEBRUARY 1958, Judge IRVING BRAND, WITHOUT JURISDICTION, without notice, granted Plaintiff, HOLMES, a Default Judgment.

On 14 FEBRUARY 1958, the Clerk of Court, WITHOUT JURISDICTION, entered judgment, but FAILED to mail a copy to ROSSO (RULE 77.04).

On 27 FEBRUARY 1958, the Sheriff WITHOUT JURISDICTION, made "Sheriff's Levy and Certificate", upon the HOMESTEAD PROPERTY of Dan and Paulina ROSSO (Parents of PAUL ROSSO).

The Minn. Const. Art. 1, Sec. 12, provides for property exemption, and the following statutes were enacted thereby.

Minn. St. Ch. 510 HOMESTEAD EXEMPTIONS
Minn. St. Ch. 550.37 PROPERTY EXEMPT

On 28 FEBRUARY 1958, the Sheriff, WITHOUT JURISDICTION, prepared a "Notice of Sheriff's Execution Sale", to sell the HOMESTEAD PROPERTY of DAN and PAULINA ROSSO, and copy was served 1 MARCH 1958, upon Dan Rosso, Paulina Rosso, and Paul Rosso, by the Sheriff.

DAN ROSSO engaged Attorney JOHN LABENSKI, to take action to protect the HOMESTEAD against a scheduled Sheriff Sale.

After Attorney JOHN LABENSKI looked into the matter he then claimed his boss, Attorney General MILES LORD, had prohibited him, while employed by the State, from representing private parties, except parties in divorc

actions. Attorney LABENSKI highly recommended Attorney EDWARD P. DIETRICH to ROSSOS.

Attorney DIETRICH immediately moved to set aside the Sheriff Sale.

On 10 APRIL 1958, Chief Judge LEVI HALL, WITHOUT JURISDICTION, ordered ROSSO to pay $67.00, to Plaintiff's Attorney, for costs to advertise the Homestead Property for Sale, before he (Judge HALL) would set aside the Sheriff's Sale. (S.CT. BRIEF, Pages 45 thru 52).

Defendant WILLIAM HOLMES then made application for SUMMARY JUDGMENT, return day, 24 JUNE 1958.

On 24 JUNE 1958, the Opinion of the Hennepin County District Court was entered in HOLMES vs. ROSSO, Case No. 533990, by the late Judge PAUL S. CARROLL. ALL THINGS DENIED Stay 10 Days.

JUDGE CARROLL'S ORDER HAS NOT BEEN SET ASIDE, APPEALED FROM, OR VACATED. (SEE: 18 USC 1506 (S.CT. RECORD, P. 141).

ROSSO then engaged his attorney, EDWARD P. KIETRICH, to have the Minnesota Real Estate Division investigate the advertisement and acts of Plaintiff HOLMES. Subsequently, Attny. DIETRICH claimed the Real Estate Board could do nothing. No written report was ever made, as promised. (S.CT. RECORD, P. 139).

On 31 JULY 1958, the Clerk of Court, WITHOUT JURISDICTION, placed the action on the active trial calendar No. 23112, for hearing. (S.CT. RECORD, P. 143)

SPECIAL RULES of Fourth Judicial District - Rule 5(b) states in part:

Attorneys so notified shall at once inform the clerk whether such case or cases are for trial and unless so informed within five (5) days after the mailing of such notice it shall be deemed that the case has been settled or abandoned, and the clerk shall then omit it from the calendar and may substitute another case in lieu thereof.

THE CASE, HOLMES vs. ROSSO, WAS NEVER PUT ON FOR TRIAL, AND WAS APPARENTLY ABANDONED BY PLAINTIFF HOLMES

On the evening of 10 FEBRUARY 1959, Attorney EDWARD P. DIETRICH, telephoned PAUL ROSSO to appear in Court the following day for Trial.

On 11 FEBRUARY 1959, ROSSO appeared before Judge B. M. HEINZEN with Attorney DIETRICH.

N O T E: The Jury was NOT CITED the City Ordinance on classification of type buildings, NOR was the City Attorney present to prosecute, a violation of the ordinance to misrepresent the type of building NOR, did the Plaintiff (HOLMES) ever comply with the Order for Judgment, by depositing with the Clerk of Court, a properly executed Warranty Deed, NOR, did Plaintiff ever furnish Defendant ROSSO, an abstract to the premises. (S.CT. RECORD, P. 145).

On 23 FEBRUARY 1959, the Opinion of the Henn. Cty. District Court, WITHOUT JURISDICTION, was entered in HOLMES vs. ROSSO, by the late Judge G. M. HEINZEN. (S.CT. RECORD 145).

The dated 23 FEBRUARY 1959 ORDER FOR JUDGMENT, specifically states:

> "2. No execution shall issue on the judgment to be entered herein until plaintiff has deposited with the clerk of court a properly executed warrenty deed to the premises..."

Plaintiff, HOLMES DID NOT COMPLY WITH THIS ORDER.

On or about 4 MARCH 1959, WITHOUT JURISDICTION, the Clerk of Court levied execution which was RETURNED UNSATISFIED by the Sheriff, about 4 MAY 1959, to the Clerk of Court.

N O T E : When execution is returned unsatisfied after 60 days from issuance the case is closed, and the Court cannot levy again.

M.S. Gh. 550.05; 6 NY 2d 35, 39.

On 18 MAY 1959, AFTER TERM, without CONSENT of the Defendant ROSSO, Plaintiff's ATTORNEY CHARLES A. COX, prepared a MOTION TO MODIFY FINDINGS, etc., together with an attached AFFIDAVIT, Return Day 29 MAY 1959. (S.CT. RECORD, P. 153 and 154).

Subsequently, ROSSO filed two motions in opposition. (S.CT. RECORD, Pages 149 and 151.)

On 2 JUNE 1959, Chief Judge LEVI HALL, WITHOUT JURISDICTION, entered an ORDER granting Plaintiff's request to amend. No ruling was made upon Defendant's Motion. (S.CT. RECORD, P. 138)

18 Cal. Reporter 779 If an order, which by statute is final and conclusive, can be amended and reamended to supply vital deficiencies therein the feet of the litigant would be standing on quicksand, without any idea when he could take effective proceedings to annul the order.

The ORDER of the Hennepin County District Court, dated 11 JUNE 1959, WITHOUT JURISDICTION, by Chief Judge LEVI M. HALL, contained:

TO THE SHERIFF OF HENNEPIN COUNTY -

"..you are hereby ordered to levy upon the following real property when requested to do so by the plaintiff or his attorneys :

Lot 4, Block 9, Wilson's Rearrangement of Blocks, etc.
(LEGAL DESCRIPTION OF THE HOMESTEAD PROPERTY)

BY THE COURT
(S.CT. RECORD, Page 211) /s/ LEVI M. HALL

On 11 JUNE 1959, the Clerk of Court, WITHOUT JURISDICTION, levied execution.

On 17 AUGUST 1959, WILLIAM HOLMES, under a judgment entered and docketed, and pursuant to execution levied upon the EXEMPT HOMESTEAD PROPERTY of DAN and PAULINA ROSSO,

P U R C H A S E D the property for $2,500, at a Sheriff Sale, WITHOUT JURISDICTION, "that said sale was in all things openly, honestly and fairly conducted, said person the highest and best bidder".

SEE: (S. CT. RECORD, Pages 208 thru 210
Sheriff's CERTIFICATE OF SALE)

N O T E :

The yearly rental profit, exceeds this sum ($2,500). Sheriff ED RYAN, personally knew DAN ROSSO and Family for many years, as did Deputy EDWARD H. STOLTZ and WALTER RUSINKO.

SUMMATIONS AND OPINIONS BELOW

3. JAMES LEDWEIN vs. PAUL ROSSO, DAN ROSSO, PAULINA ROSSO A N D WILLIAM HOLMES.
CASE NO. 547205. (Henn. Cty. Dis. Court)

On 27 JULY 1959, a Complaint was served upon DAN ROSSO, entitled, JAMES LEDWEIN vs. PAUL D. ROSSO DAN ROSSO: PAULINE M. ROSSO: AND WILLIAM HOLMES,

a spurious action instituted to unlawfully obtain money, based upon the alleged HOLMES and LEDWEIN "judgments".

Minn. St. Ch. 550:05 The execution shall be made returnable, within 60 days after its receipt by the officer, to the clerk with whom the judgment roll is filed;...

6 NY 2d 35, which held that -- When the levy and execution herein became void by operation of law because of plaintiff's failure to comply with sec..., it constituted and was equivalent to the execution being "vacated and set aside"...

6 NY 2d 39 Additional judicial action is not provided by the plain language of the statute, and we may not infer it.

ANSWER was made by Attorney HENRY JOHNSON, representing DAN ROSSO & FAMILY, a general denial.

NO FOLLOW-UP SERVICE WAS EVER MADE TO VEST THE COURT WITH JURISDICTION. (RULE 38.03 and 4.06).

Judge EARL J. LYONS, WITHOUT JURISDICTION, signed an ORDER TO SHOW CAUSE, that was served upon ROSSO.

PAUL ROSSO went to Attorney HENRY JOHNSON'S office to discuss the Order to Show Cause.

Attorney HENRY JOHNSON, stated the Order to Show Cause was made because Plaintiff LEDWEIN wanted answers to interrogatories on the fraudulent conveyance of the HOMESTEAD PROPERTY. Attorney JOHNSON further

stated his associate, ATTORNEY DAVID E. MIKKELSON had telephoned DAN ROSSO to appear and answer interrogatories about the conveyance of the Homestead Property, now owned by MELBA P. EVANSON, and since no one made answers to the interrogatories, I, (Attny. JOHNSON) can't do anything at this time.

N O T E : BOTH Attorneys JOHNSON and MIKKELSON personally knew the DAN ROSSO FAMILY for many,many years, as Owners of the HOMESTEAD PROPERTY.

PAUL ROSSO related the following to Attorney HENRY JOHNSON: WILLIAM HOLMES misrepresented, in a Mpls. Newspaper ad, a brick building for sale, when in FACT, HOLMES had a wood building, veneered with brick. On the next day, HOLMES, a Real Estate Agent, was told by ROSSO, the building was not as advertised. HOLMES was also notified by registered mail of this fact, by ROSSO. (S.CT. RECORD, P. 135).

A FALSE ADVERTISEMENT of the class of building, namely masonary instead of wood construction, is a violation of the City Ordinance. (S.CT. BRIEF P. 45).

PAUL ROSSO also related to Attorney HENRY JOHNSON:

In the LEDWEIN case, he (LEDWEIN) left his Truck unattended, blocking the ROSSO HOMESTEAD REAR LOT DRIVEWAY, plainly marked "NO PARKING".

When ROSSO asked LEDWEIN to move his Truck, LEDWEIN suddenly struck with his fist toward ROSSO, and told ROSSO to move the vehicles in the space rented by the Anchor Laundry Company.

ROSSO pushed LEDWEIN away; there was no fight; no argument, and LEDWEIN got in his Truck and drove out. Nothing else took place.

In Court, LEDWEIN testified he suffered no expense, lost no time from work, and did not dispute the statement that Defendant ROSSO pushed LEDWEIN away, and that nothing further happened. (S.CT. BRIEF, P. 60).

LEDWEIN'S ATTORNEY RICHARD HUNEGS, requested PAUL ROSSO to DEMONSTRATE, to the Court, how LEDWEIN struck at ROSSO, and how ROSSO pushed LEDWEIN away.

For this demonstration, RICHAPD HUNEGS, took the place of LEDWEIN. After the demonstration, Attorney HUNEGS sat down at the Counsel Table, talked to LEDWEIN, and requested for the SECOND TIME, a demonstration with ROSSO.

LEDWEIN did not dispute anything that was said or demonstrated by PAUL ROSSO. (S.CT. RECORD, P.165)

PAUL ROSSO also told Attorney HENRY JOHNSON the face of the Complaint (LEDWEIN vs. ROSSOS and HOLMES), reveals an unlawful demand for money. Attorney JOHNSON inquired as to how could anyone tell from the face of the Complaint, it was an unlawful demand for money.

ROSSO referred to the claim for $3,000, as attorney fees.

Attorney JOHNSON laughed and assured ROSSO no judge would allow that much; that we can cancel out one of the judgments.

Attorney JOHNSON still insisted he would not, and could not do anything even though he (JOHNSON) personally knew, for many years, the HOMESTEAD PROPERTY ofDAN ROSSO AND FAMILY. (S.CT. RECORD, P. 187(Complaint)
(S.CT. BRIEF, P. 72.

225 F. Supp. 554 (1964 DC Va.)

The general principal of Anglo Saxon jurisprudence has always been that the loser of a lawsuit had to pay the taxable court costs but that other costs incurred by the winner (legal fees, expert witness fees, etc.), are not such costs as can be charged to the loser.

Minn. St. Ch. 614.54

Every person who, with intent to defraud, shall knowingly present, for audit, allowance, or payment to any officer...shall be guilty of a felony.

BLACK'S LAW DIC. 4TH ED., Page 1235

OFFICER The incumbent of an office; one who is lawfully vested with an office.

NOTE:
A clerk of Hennepin County District Court is an Officer.
A Judge of Hennepin County District Court is a Judicial Officer.

ROSSO prepared an application entitled: (S.CT. RECORD, P. 200.)

MOTION TO HAVE THIS ORDER TO SHOW CAUSE
STRICKEN FROM THE CALENDAR
AND
AFFIDAVIT OF PREJUDICE REGARDING
JUDGE EARL J. LYONS.

Judge WILLIAM LARSON did not rule on this motion. (S.CT. BRIEF, P. 72)

On 3 AUGUST 1960, Judge JOHN A. WEEKS, WITHOUT JURISDICTION, and WITHOUT NOTICE, entered DEFAULT JUDGMENT.

The Clerk of Court FAILED to mail a copy of the entry of the Order to ROSSO. (Rule 77.04). (S. CT. RECORD, P. 206).

SUMMATIONS & OPINIONS BELOW

4. WILLIAM HOLMES vs. PAUL ROSSO

Unlawful Detainer CASE NO. 32765.

On or about 14 OCTOBER 1960, WILLIAM HOLMES instituted a spurious Unlawful Detainer Action against PAUL ROSSO to gain possession of a building located at 208 EAST HENNEPIN AVENUE, Minneapolis. (S. CT. RECORD, P. 205).

The Unlawful Detainer action, was based upon an alleged Sheriff Sale of HOMESTEAD PROPERTY, and DID NOT state a cause of action, as required by Statute. (M.S. Ch. 566.) 28 MINN. 461.

On 25 OCTOBER 1960, Judge LUTHER SLETTEN, WITHOUT JURISDICTION, ruled against PAUL ROSSO'S RIGHT OF POSSESSION of the Premises, 208 EAST HENNEPIN AVE. (S. CT. RECORD, P. 17).

On 5 DECEMBER 1960, a Deputy Clerk, WITHOUT JURISDICTION, issued a Writ of Restitution, WITHOUT FINDINGS, WITHOUT STATING THE CAUSE OF ACTION BEFORE THE COURT OF INQUIRY, AND NOT SIGNED BY A JUDGE, AS REQUIRED BY STATUTE.

On 7 DECEMBER 1960, Mr. WALTER B. ERICKSON, displaying a Mpls. POLICE Badge, WITHOUT JURISDICTION,

ordered PAUL ROSSO OUT OF THE 208 EAST HENNEPIN AVENUE BUILDING, WITHIN 24 HOURS.

About one week later, MR. WALTER B. ERICKSON, WITHOUT JURISDICTION, AGAIN APPEARED at 208 E. Hennepin Ave. Building, and shouted to PAUL ROSSO to GET OUT IN 24 HOURS.

On 11 JANUARY 1961, ATTORNEY CHARLES A. COX, representing WILLIAM HOLMES, mailed a letter addressed to PAUL ROSSO, which concluded :

> "Unless we hear from you on or before January 25, it will be necessary to have you forceably evicted. We hope and trust that this will not be necessary."

(S.CT. RECORD, P. 25).

SUMMATIONS AND OPINIONS BELOW

5. IN APPLICATION TO REGISTER LAND, CASE NO. 14888

LOT 4, BLOCK 9, WILSON'S RE-ARRANGEMENT OF BLOCK etc.
(LEGAL DESCRIPTION OF DAN ROSSO & FAMILY HOMESTEAD PROPERTY)

On 15 DECEMBER 1960, DAN ROSSO DIED.

On 16 DECEMBER 1960, JAMES LEDWEIN and ATTORNEY SAMUEL SALITERMAN assent to the Registration of the above described real estate, as prayed for by WILLIAM HOLMES. (S. CT. BRIEF, P. 89.)

A NEWSPAPER CLIPPING, entitled, LAND REGISTRATION PROCEEDINGS NO. 14838, was served upon the Homestead Occupants-Owner by the Sheriff.

On 22 APRIL 1961, and 25 APRIL 1961, timely A N S W E R S were made by Homestead Occupants-Owner, namely: Gordon and Melba P. EVANSON, by PAUL DAN ROSSO and by PAULINA M. ROSSO, by Certified Mail, Addressed to the Clerk of Hennepin County Court. (SEE: S.CT. BRIEF, Pages 96 thru 100) SEE: ENVELOPE # 6, ITEM 7, ANSWERS, Filed: Fed. Dis. Ct. 4-63 Civ. 457).

(((ON 21 MARCH 1962, A COPY OF EACH OF THE PETITIONERS' ANSWERS, WERE PERSONALLY LEFT WITH CHIEF JUSTICE OSCAR R. KNUTSON. PETITIONERS ALSO DISPLAYED THE CERTIFIED MAIL RETURN RECEIPTS, WHICH THE JUSTICE CAREFULLY EXAMINED.)))

NO FOLLOW-UP SERVICE WAS EVER MADE TO VEST THE COURT WITH JURISDICTION. RULES 38.03 and 4.06.

On 8 AUGUST 1961, the OPINION of the Hennepin County District Court, WITHOUT JURISDICTION, was entered by JUDGE EARL J. LYONS, W I T H O U T NOTICE OF HEARING. (SEE: S.CT. BRIEF, P. 79 thru 100).

(SEE: TRANSCRIPT, RECORD, P. 53. FEINBERG's Statement to the Court)

The CLERK OF COURT DID NOT SERVE by mail a NOTICE of this entry to the HOMESTEAD OWNER-OCCUPANTS. RULE 77.04.

SUMMATIONS AND OPINIONS BELOW

6. N. W. HOLDING CO., A MINN. CORP. VS. EVANSONS UD # 33943

N. W. HOLDING CO., A MINN. CORP. VS. ROSSOS UD # 33944

On 19 SEPTEMBER 1961, N. W. Holding Co., by attorney ARNOLD I. FEINBERG, instituted a spurious action in Unlawful Detainer against the Homestead Owners, EVANSONS and ROSSOS. (RECORD, Page 1).

THE UNLAWFUL DETAINER COMPLAINT DID NOT STATE A CAUSE OF ACTION TO VEST THE COURT WITH JURISDICTION.

SEE: 28 MINN. 471.

N O T E : N. W. HOLDING CO., DID NOT bring U.D. Actions against the Tenants MADY, WEESE, and HIRSCH, in possession under the Landlord's Title, the HOMESTEAD OWNER.

On 26.SEPTEMBER 1961, the Decision and Order of the Minneapolis MUNICIPAL Court, JUDGE BRUCE C. STONE, WITHOUT JURISDICTION, was entered WITHOUT FINDINGS in the Unlawful Detainer Actions. (SEE: RECORD, P. 55).

NO SERVICE WAS EVER MADE, IN U. D. ACTION # 33944, N. W. HOLDING CO., VS. PAUL DAN ROSSO and PAULINA M. ROSSO.

On 28 OCTOBER 1961, a timely motion to SET ASIDE, was denied by Judge LINDSAY G. ARTHUR. (S.CT. RECORD, P. 77).

On 8 NOVEMBER 1961, the Deputy Clerk WITHOUT JURISDICTION, entered judgment, a "Writ of restitution", NOT SIGNED by a Judge, as required by Statute, WITHOUT FINDINGS, and WITHOUT stating the CAUSE OF ACTION, before the Court of Inquiry. (S.CT. RECOPD, P. 56).

On 20 NOVEMBER 1961, the ORDER NUNC PRO TUNC, WITHOUT JURISDICTION, was signed by Judge LINDSAY G. ARTHUR. (S. CT. RECORD, P. 81).

SUMMATION AND OPINIONS BELOW

7. EVANSONS & ROSSOS vs. N. W. HOLDING CO., ET AL INJUNCTION, DATED 21 NOVEMBER 1961.

A dated 21 NOVEMBER 1961, EX PARTE INJUNCTION, signed by District Court Judge JOHN A. WEEKS, was obtained by ATTORNEY CARL O. WEGNER, for EVANSONS & ROSSOS, to restrain the UNLAWFUL SEIZURE of the HOMESTEAD PROPERTY. The Restraining Order was issued to RESTRAIN the unlawful seizure of the HOMESTEAD and RETURN of the EXEMPT PERSONAL PROPERTY BEING TAKEN, because of a SCHEDULED HEARING IN MUNICIPAL COURT, 24 NOVEMBER 1961.

On 24 NOVEMBER 1961, at 2:00 P.M., in Court, Attorney ARNOLD I. FEINBERG, representing N.W. Holding Co., appeared and requested the Hearing be postponed until 1 DECEMBER 1961, because he (FEINBERG) had a case in St. Paul. The request was granted by Judge DONALD T. BARBEAU.

Attorney CARL O. WEGNER, representing EVANSONS and ROSSOS, approved the delay. Attorney WEGNER personally knew the DAN ROSSO and FAMILY HOMESTEAD PREMISES, for about 35 years. (SEE: ANSWER TO RESPONDENTS MOTION

TO DISMISS, ITEM 104 thru ITEM 108, regarding Attny. WEGNER). (Pages 21 and 22)

On 27 NOVEMBER 1961, WITHOUT TIMELY APPLICATION, WITHOUT TWO DAYS NOTICE, WITHOUT HEARING, AND WITHOUT JURISDICTION, Judge JOHN A. WEEKS WITHDREW THE TEMPORARY RESTRAINING ORDER.

(SEE: S.CT. ANSWER TO RESPONDENTS MOTION TO DISMISS, ITEM 109 thru 112)
(Pages 22 and 23)

195 F 2d 356 The purpose of a preliminary injunction ordinarily is to preserve the status-quo until the rights can be fully determined by trial.

SUMMATION AND OPINIONS BELOW

8. MELBA P. EVANSON vs. H. H. WEESE -U.D.Case No. 34898
MELBA P. EVANSON vs. FLORENCE MADY-U.D.Case No. 34899

On 25 MAY 1962, MELBA P. EVANSON made a Complaint in Unlawful Detainer against Tenants in Store portions of the HOMESTEAD, for the failure to pay the monthly rental, Mr. H. H. WEESE, and MRS. FLORENCE MADY. HEARING DAY: 1 JUNE 1962. (S.CT. RECORD, P. 1a)

On 2 JUNE 1962, a MOTION FOR DIRECTED VERDICT was made (RECORD, P. 39a).

On 11 JULY 1962, Judge HERBERT W. ESTREM, entered FINDINGS CONTRARY to the evidence introduced.

(SEE: S.CT. ANSWER TO RESPONDENTS MOTION TO DISMISS, Pages 37-39).

(SEE: ENVELOPE # 2, filed in Fed. Dis. Court w/PETITION).

SUMMATION AND OPINIONS BELOW

9. MELBA P. EVANSON vs. ANCHOR LAUNDRY CO., A MINN. PARTNERSHIP WILLIAM HIRSCH OWNER-PARTNER U.D.# 35596

MELBA P. EVANSON vs. MR. & MRS. ALBERT A. POIN UNLAWFUL ENTRY CASE # 35597

MELBA P. EVANSON vs. MR. & MRS. KENNETH MELL, JR. UNLAWFUL ENTRY Case # 35598

On or about 1 NOVEMBER 1962, Melba P. Evanson, made a Complaint in Unlawful Detainer against Mr. WILLIAM HIRSCH, Owner-Partner, ANCHOR LAUNDRY COMPANY, A MINN. PARTNERSHIP, Tenant in Portion of Rear Homestead Lot, A N D : MR. AND MRS. ALBERT A. POIN AND MR. AND MRS. KENNETH MELL, JR. Trespassers of Second Floor Living Quarters in the HOMESTEAD PROPERTY.

(SEE: ENVELOPE # 3, filed in Fed. Dis. Court w/PETITION).

In December 1962, the Opinion of the Mpls. Municipal Court, Judge ELMER R. ANDERSON, was entered.

10. FIDELITY SECURITIES & INVESTMENT CO., A MINN. CORPORATION

VS.

MELBA P. EVANSON and PAUL DAN ROSSO CASE # 579917

On 20 AUGUST 1962, in the above case, an ORDER TO SHOW CAUSE, was issued WITHOUT JURISDICTION, by Chief Judge LEVI M. HALL, Henn. Cty. Dis. Court.

The "Order" did not claim the Defendants were violating any LAW, OR, the Defendants were violating the Plaintiff's CONSTITUTIONAL RIGHTS, nor, were FINDINGS made. (RULE 52.)

On 6 OCTOBER 1962, the Opinion of the Court, WITHOUT JURISDICTION, was entered by Judge LEVI M. HALL, GRANTING Preliminary Injunction and DENYING Plaintiff's Motion.

On 9 NOVEMBER 1962 Judge ROLF FOSSEEN, WITHOUT JURISDICTION, signed an ORDER TO SHOW CAUSE, that DID NOT allege a Statutory Violation or state reasons, facts, and circumstances, or arrive at a conclusion upon which the order was predicated. RULE 52. (SEE: ENVELOPE # 4, filed in Fed. Dis. Court w/PETITION).

On 17 FEBRUARY 1964, Judge ROLF FOSSEEN, WITHOUT JURISDICTION, entered an ORDER, after Term, and after the REMOVAL PETITION was filed.

(For copy of Order, see 4-63 Civ. 457, paper dated 2 MARCH 1964).

11. APPEAL, IN MINNESOTA SUPREME COURT -

CASE NO. 38771

N. W. HOLDING CO., VS. EVANSONS ET AL.

(SEE: ABOVE, 8., 9., and 10., (SIX ACTIONS).

BECAUSE THE ABOVE SIX (6) ACTIONS WERE RELATED TO THE ACTION PENDING IN THE MINN. STATE SUPREME COURT FOR HEARING 6 DEC. 1962, THE APPELLANTS CONSOLIDATED THESE SIX ACTIONS, TO BE HEARD AT THE SAME TIME, 6 DECEMBER 1962. (CASE NO. 38771).

SERVICE WAS MADE BY SHERIFF UPON THE PARTIES.

On 11 JUNE 1962, Petitioners' RECORD and BRIEF (S.CT. # 38771), were served upon the President of Northwest Holding Co., Mr. ISRAEL MIRVISS.

On 3 JULY 1962, N.W. HOLDING CO., made a MOTION FOR DISMISSAL.

On 20 JULY 1962, the Motion to Dismiss the Appeal, was denied by the Minn. Supreme Court.

NO RESPONSIVE PLEADING WAS MADE BY N. W. HOLDING COMPANY, A MINN. CORP.

NO RESPONSIVE PLEADING WAS MADE BY ANY OF THE SIX DEFENDANTS IN THE CONSOLIDATED CASES.

APPLICATION WAS MADE FOR DEFAULT JUDGMENT AGAINST N. W. HOLDING CO.

On 21 JUNE 1963, the OPINION of the Minnesota Supreme Court was entered. Opinion cited at 265 Minn. 562.

On 3 AUGUST 1963, a timely PETITION FOR REHEARING was denied.

On 15 AUGUST 1963, a second PETITION FOR REHEARING, was denied.

On 23 NOVEMBER 1963, by mail, the Appellants received a dated 22 NOVEMBER 1963 ORDER, "petition for re-argument denied".

12. IN FEDERAL COURT - REMOVED ACTION -

CASE NO. 4-63 Civ. 457

GORDON EVANSON and MELBA P. EVANSON
PAUL DAN ROSSO and PAULINA ROSSO
vs.
NORTHWEST HOLDING COMPANY, A MINN. CORP.

On 13 DECEMBER 1963, a VERIFIED PETITION was filed in the U. S. FEDERAL DISTRICT COURT, removing the action, TOGETHER with the SIX (6) CONSOLIDATED ACTIONS.

The Defendant, N. W. HOLDING CO., by Attorney ARNOLD I. FEINBERG, MADE NO DEFENSE (RULE 8), but moved for dismissal, under RULE 12(b)(6)(2) (1).

On 13 JANUARY 1964, HEARING DAY, NO PRINCIPAL DEFENDANT APPEARED in Federal District Court, to represent N.W. Holding Co., AND, the Defendants in the six (6) CONSOLIDATED ACTIONS DID NOT MAKE ANSWER OR APPEARANCE.

GORDON EVANSON, MELBA P. EVANSON, PAUL DAN ROSSO, AND PAULINA ROSSO WERE IN ACTUAL, EXCLUSIVE, NOTORIOUS, QUIET POSSESSION OF THEIR HOMESTEAD PROPERTY AT THE COMMENCEMENT OF THE ACTIONS IN UNLAWFUL DETAINER.

NO SHOWING HAS EVER BEEN MADE THAT APPELLANTS' POSSESSION HAS TERMINATED AT ANY TIME.

84 S. Ct. 21 (1963) Where state procedural snarls or obstacles preclude an effective state remedy against unconstitutional convictions, federal courts have no choice but to grant relief in a collateral proceeding.

On 15 JANUARY 1964, the OPINION of the U.S. Federal District Court was entered WITHOUT FINDINGS, by Judge GUNNAR H. NORDBYE, and reads :

Gordon Evanson et al., vs. Northwest Holding Co.

"ORDER

Petitioners seek by filing a petition in this Court to review the judgment of the Supreme Court of the State of Minnesota entered June 21, 1963 (122 N.W. 2d 596), and to review subsequent orders of that Court denying petitioners' motions for an enlargement of time for a rehearing of the June 21, 1963 decision. The respondent has filed a motion for dismissal upon the ground that this Court is without jurisdiction. Petitioners counter with a motion for summary judgment in their behalf. Obviously, this Court has no jurisdiction to entertain petitioners' petition to review this decision of the Supreme Court of the State of Minnesota or any of the subsequent orders therein.

It follows, therefore, that respondent's motion to dismiss the petition herein must be granted. It is so ordered.

Dated this 15th day of January, 1964."

Subsequently, OPINIONS of the U.S. Dis. Court repeated this claim of lack of jurisdiction.

(SEE: 4-63 Civ. 457, MOTION FOR FOURTH REHEARING OF PLAINTIFFS' WRITS OF ERROR CORAM NOBIS, WITH AFFIDAVIT
DATED: 31 MARCH 1965.

On 20 DECEMBER 1965, the Opinion of the U. S. Dis. Court states in part:

> "...clearly, the time for a final cessation of the filing herein of further documents by the plaintiffs is long past due."

A timely MOTION IN ARREST OF JUDGMENT, was made and served to SUSPEND the VOID JUDGMENT, until the next term, when the Court could review the matter, return day, 10 JANUARY 1966.

The Clerk of U. S. District Court refused to file the above motion, and returned the motion to the Plaintiffs by mail.

NO OBJECTIONS WERE MADE BY DEFENDANT, N. W. HOLDING COMPANY, NOR, DID THEIR ATTORNEY MAKE APPEARANCE IN COURT ON RETURN DAY, 10 JANUARY 1966.

On return day, 10 JANUARY 1966, in Special Term Court, Chief Judge EDWARD J. DEVITT, was given Plaintiff's MOTION IN ARREST OF JUDGMENT, by the Clerk of Court, Chief Deputy WILLIAM H. ECKLEY.

(SEE: TRANSCRIPT 4-63 Civil 457 U.S. District Court District of Minn. Fourth Division

Gordon Evanson, et al, Plaintiffs,
vs.
Northwest Holding Company, etc., Defendant.

The above-entitled matter came on before the Honorable Edward J. Devitt, Chief Judge of the above Court at Minneapolis, Minnesota, on January 10, 1966.

APPEARANCES: Paul Rosso for plaintiffs.

THE COURT:

Mr. Rosso, you know Judge Nordbye has made an Order advising the Clerk not to accept any more filings from you. You see, he has heard your case over and over again, and he has tried to explain to you how you have no cause of action here; and so the Clerk isn't authorized to file this instrument now. So you just had your day in Court here; in fact, you have had many of them, and any motions you have made, they are all denied. Judge Nordbye has made an Order denying them, and I think the Clerk told you that several times and I have told you several times. Maybe you have some recourse over in State Court, but you don't have any here.

MR. ROSSO: I request you read the motion.

THE COURT: Yes, I read your motion and it's denied, and the Clerk is directed not to accept any more papers from you.

MR. ROSSO: All right. Thank you.

* * *

I do hereby certify that the foregoing is a true and correct transcript of the stenograph notes taken by me in the above-entitled matter.

/s/ Earl G. Anderson
Earl G. Anderson
Official Court Reporter"

13. IN U. S. COURT OF APPEALS - EIGHTH CIRCUIT
September Term 1965 CASE NO. 18276

GORDON EVANSON, ET AL, Petitioners,
vs.

FRANK A. MASSEY, CLERK OF U.S. DISTRICT CT., ET AL.

A timely PETITION for WRIT OF MANDAMUS, was made to the Eighth Circuit Court of Appeals.

On 16 FEBRUARY 1966, the Opinion of the Court of Appeals was entered, "denied".

14. IN U. S. COURT OF APPEALS - EIGHTH CIRCUIT
September Term 1965 CASE No. 18319

GORDON EVANSON AND MELBA P. EVANSON
PAUL DAN ROSSO AND PAULINA ROSSO
VS.

NORTHWEST HOLDING COMPANY, A MINN. CORPORATION

On 18 JANUARY 1966, a NOTICE OF APPEAL was made, accompanied by a BOND, for costs on appeal.

On 25 FEBRUARY 1966, a timely APPEAL was docketed, CASE NO. 18319, U.S. Court of Appeals, Eighth Circuit.

15. IN U. S. COURT OF APPEALS - DATED MARCH 2, 1966, ORDER.

On MARCH 2, 1966, an ORDER was entered, which states in part:

"...this appeal will be heard on the original files..file five typewritten copies of their brief with this Court and serve one...on counsel for appellee."...

On APRIL 1966, APPELLANTS' BRIEF was served by Certified Mail No. 962545, upon Defendant's Attorney, Mr. ARNOLD I. FEINBERG, at 115 Hennepin Avenue, Minneapolis, Minnesota, 55401.

III. JURISDICTION.

This APPEAL is made under 28 USC 1291, from a FINAL ORDER, of the U. S. District Court of Minnesota, entered on 20 DECEMBER 1965, that states in part: "...Clearly, the time for a final cessation of the filing herein of further documents by the plaintiffs is long past due...All motions heretofore filed and as to which no orders have been made by this Court are denied with prejudice."

379 S.W. 2d 114 Tex. Civ. App. 1964
Judgment Key 485.

The rule that a void judgment is one which has no legal force or effect and the invalidity of which may be asserted by any person whose rights are affected at any time and at any place directly, or collaterally applies to judgments rendered in prosecutions for criminal offenses as well as civil wrongs.
(SEE: JUDGE BRUCE STONE'S ORDER, S.CT.RECORD, P.55)

135 P 2d 71, 74 (Wash. 1943)
Judgment key 565.

A "dismissal with prejudice" is equivalent to an adjudication upon the merits and will operate as a bar to a future action.

The ORDER of the U.S. District Court of Minn., entered on 20 December 1965, that states in part :

"This order does not assume to prevent plaintiffs from proceeding by way of appeal to the Eighth Circuit Court of Appeals from any order of this Court if any right to appeal remains under the law."

On 17 JANUARY 1966, Appellants filed a timely PETITION FOR WRIT OF MANDAMUS. Case No. 18276, September Term 1965.

On 16 FEBRUARY 1965, the Court of Appeals, denied the petition.

On 18 JANUARY 1966, Appellants filed a timely notice of Appeal, accompanied by a BOND for costs on appeal.

On 25 FEBRUARY 1966, the Appeal was docketed, in the Court of Appeals, CASE NO. 18319 Civil, in September Term 1965.

IV. STATEMENT OF CASE.

THIS IS A REMOVED CASE FROM A FINAL DECISION OF THE MINN. STATE SUPREME COURT.

THIS ACTION IS AN APPEAL FROM THE FEDERAL DISTRICT COURT'S ORDER DATED 15 JANUARY 1964, GRANTING THE DEFENDANT'S MOTION FOR DISMISSAL, A N D, FROM A FINAL ORDER ENTERED 20 DECEMBER 1965, "...ALL MOTIONS ...DENIED WITH PREJUDICE".

1. NATURE OF PROCEEDINGS

R I G H T O F P O S S E S S I O N

On 19 SEPTEMBER 1961, NORTHWEST HOLDING CO., A MINNESOTA CORPORATION, without just cause or excuse, maliciously instituted two (2) spurious Unlawful Detainer Actions against APPELLANTS.

The N. W. Holding Co., by their Attorney ARNOLD I. FEINBERG, brought a spurious Unlawful Detainer Action against GORDON EVANSON and MELBA P. EVANSON, HOMESTEAD PROPERTY OWNERS, in the 2324 Central Avenue Apartment, A N D, a spurious Unlawful Detainer Action against PAUL ROSSO and PAULINA ROSSO, in the 2326 Central Avenue Apartment, Minneapolis, Minn. (NO SERVICE OF SUMMONS AND COMPLAINT IN U. D., WAS EVER MADE ON PAUL ROSSO AND PAULINA ROSSO).

NO ACTIONS were brought by N.W. Holding Co., against TENANTS in possession of portions of the Homestead Property, under their Landlord's Title.

TENANTS: MR. H.H. WEESE, 2326 Central STORE TENANT
MRS. FLORENCE MADY, 2324 Central STORE TENANT
MR. WILLIAM HIRSCH, HOMESTEAD REAR LOT TENANT.

The two Unlawful Detainer Actions, DID NOT STATE A CAUSE OF ACTION, as required by Minn. St. 566, and adjudicated case 28 Minn. 471, for the RIGHT OF POSSESSION to VEST the Court with JURISDICTION, BUT INSTEAD, RECITED, :

"That on or about August 16, 1961, the plaintiff purchased and received a quit claim deed from William Holmes...In addition thereto on August 18, 1961, N. W. Holding Co., did mortgage to Twin City Federal Savings and Loan Association, which mortgage was recorded on August 22, 1961.

AT THE COMMENCEMENT OF THE SPRUIOUS ACTIONS IN UNLAWFUL DETAINER, APPELLANTS were lawfully in OPEN, QUIET, EXCLUSIVE, NOTORIOUS, CONTINUOUS AND UNINTERRUPTED POSSESSION OF THE HOMESTEAD PROPERTY SINCE THE YEAR 1919.

AT THE COMMENCEMENT OF THE ACTIONS:

The HOMESTEAD PROPERTY had NO liens or indebtedness of any kind, such as, (1) unpaid taxes,

(2) unpaid special assessments, (3) unpaid mortgages, (4) unpaid workman's liens, or (5) unpaid materialman's liens.

The HOMESTEAD PROPERTY had NOT been conveyed, mortgaged, or transferred by APPELLANTS, to ANYONE.

The HOMESTEAD PPOPERTY had NOT been condemned, or taken by eminent domain, or had been subject to any such proceedings whatsoever.

The APPELLANTS had NO unpaid debts of ANY kind, nor were there proceedings of ANY kind pending in ANY court.

On or about 18 AUGUST 1961, GORDON EVANSON and MELBA P. EVANSON, Registered HOMESTEAD OWNER, (daughter of DAN and PAULINA ROSSO), received a letter from Northwest Holding Co., a Minn. Corp., signed by its President, MR. ISRAEL MIRVISS, notifying : "To vacate the premises that you are now occupying at this address within seven days from receipt of this letter".

The above letter was answered by return, certified Mail, stating N. W. Holding Co., was in error; that the premises was our HOMESTEAD PPOPERTY, and had not been sold at any time.

Shortly thereafter, Gordon Evanson and Melba P. Evanson, were served by WALTER B. ERICKSON, an Unlawful Detainer Summons NOT signed by a judge, as required by Statute, and a Complaint that DID NOT show a breach of contract to pay rent, or holding over after 30 day Notice to Quit, or the unlawful entry of the premises of another, together with a 30 day Notice to Quit, as required by Statute, JURISDICTIONAL PREREQUISITES, to determine the RIGHT OF POSSESSION of the premises involved.

INSTEAD, the COMPLAINT RECITED a "mortgage transaction", and a "Torrens Title", and alleged "Title" and "Ownership", RIGHTS, Federal in nature.

ON 26 SEPTEMBER 1961, WITHOUT JURISDICTION, Minneapolis Municipal Court JUDGE BRUCE C. STONE, ruled against Defendants' RIGHT OF POSSESSION, WITHOUT FINDINGS, as did JUDGE LINDSAY ARTHUR, on 28 OCTOBER 1961, AND, on 20 NOVEMBER 1961, WITHOUT JURISDICTION, denied Our MOTION TO SET-ASIDE. (S. CT. RECORD, Pages 24, 77, and 81).

(2) unpaid special assessments, (3) unpaid mortgages, (4) unpaid workman's liens, or (5) unpaid materialman's liens.

The HOMESTEAD PROPERTY had NOT been conveyed, mortgaged, or transferred by APPELLANTS, to ANYONE.

The HOMESTEAD PROPERTY had NOT been condemned, or taken by eminent domain, or had been subject to any such proceedings whatsoever.

The APPELLANTS had NO unpaid debts of ANY kind, nor were there proceedings of ANY kind pending in ANY court.

On or about 18 AUGUST 1961, GORDON EVANSON and MELBA P. EVANSON, Registered HOMESTEAD OWNER, (daughter of DAN and PAULINA ROSSO), received a letter from Northwest Holding Co., a Minn. Corp., signed by its President, MR. ISRAEL MIRVISS, notifying : "To vacate the premises that you are now occupying at this address within seven days from receipt of this letter".

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Shortly thereafter, Gordon Evanson and Melba P. Evanson, were served by WALTER B. ERICKSON, an Unlawful Detainer Summons NOT signed by a judge, as required by Statute, and a Complaint that DID NOT shew a breach of contract to pay rent, or holding over after 30 day Notice to Quit, or the unlawful entry of the premises of another, together with a 30 day Notice to Quit, as required by Statute, JURISDICTIONAL PREREQUISITES, to determine the RIGHT OF POSSESSION of the premises involved.

INSTEAD, the COMPLAINT RECITED a "mortgage transaction", and a "Torrens Title", and alleged "Title" and "Ownership", RIGHTS, Federal in nature.

ON 26 SEPTEMBER 1961, WITHOUT JURISDICTION, Minneapolis Municipal Court JUDGE BRUCE C. STONE, ruled against Defendants' RIGHT OF POSSESSION, WITHOUT FINDINGS, as did JUDGE LINDSAY ARTHUR, on 28 OCTOBER 1961, AND, on 20 NOVEMBER 1961, WITHOUT JURISDICTION, denied Our MOTION TO SET-ASIDE. (S. CT. RECORD, Pages 24, 77, and 81).

On 21 NOVEMBER 1961, PRIOR to scheduled, 24 NOVEMBER 1961 Court rehearing in Municipal Court (on 24 Nov. 1961, the Court advanced hearing day to 1 DECEMBER 1961), the NORTHWEST HOLDING COMPANY, A MINN. CORP., their Agents, and with a force of 20 to 30 men, some wearing Minneapolis Police Uniforms, WITHOUT NOTICE, HEARING, OR PROBABLE CAUSE, with a SLEDGEHAMMER, smashed open the HOMESTEAD PROPERTY DOOR, while Occupant and Owner, MELBA P. EVANSON, tried vainly to hold the door shut.

On 21 NOVEMBER 1961, Police Officer, WALTER B. ERICKSON, served a copy of a WRIT OF RESTITUTION, VOID UPON ITS FACE, that DID NOT state a cause of action before the Court in Inquiry, nor did the writ contain a judgment of restitution, nor was it signed by a Judge, as required by Statute, but instead, was signed by a Deputy Clerk of Municipal Court.

On 21 NOVEMBER 1961, Mpls. Police and Others, WITHOUT JURISDICTION, stated to Occupant-Owner of the Homestead Property, MELBA P. EVANSON, "we are moving you OUT". Melba P. EVANSON pleaded

with Police Officer, who identified himself as "MATTHEWS", as well as to all others; to telephone the Clerk of Municipal Court to verify the statement made by Melba P. Evanson, that a hearing would be held on Friday, 24 November 1961, at 2:00 P.M. in regard to the N. W. Holding Co., vs. Gordon Evanson et al. Mr. MATTHEWS refused to comply with this most urgent request, but instead insisted, "we are moving you OUT". At this point, Mr. Matthews, kicked open (according to his own admission), the apartment door to the Homestead Property, and approximately five moving men, along with the protection of about eight Mpls. Police men, entered my Homestead Residence. Nearly all of the belongings and possessions accumulated during the 34 years of resident in the Homestead Property, were REMOVED RAPIDLY AND LOADED INTO A MOVING VAN.

On 21 NOVEMBER 1961, PLEAS FOR AID to our Public Officials, as well as pleas to JUDGES STONE, ARTHUR, BARBEAU, BERGIN, Municipal Court, and to the City Attorney KEITH STEID, and District Attorney MILES LORD, all fell on deaf ears.

On 21 NOVEMBER 1961, ATTORNEY CARL O. WEGNER, obtained a restraining order from District Judge JOHN A. WEEKS, and the exempt personal property was returned to the Homestead Property crated.

On 21 NOVEMBER 1961, MELBA P. EVANSON was scheduled to appear at 2:00 P.M., in Municipal Court on an Unlawful Detainer Action against a TENANT OCCUPYING A PORTION of the Homestead Property, 2324 Central Ave. STORE, for non-payment of rent. No appearance was made by Defendant FLORENCE MADY. The Judge DONALD T. BARBEAU, allowed the appearance of Attorney Arnold I. FEINBERG, of N.W. Holding Company, (WITHOUT making a timely application to intervene, and over the objection of Melba P. Evanson), and dismissed the case as Mr. Feinberg requested, without a hearing. (U. D. CASE NO. 34129.)
(S. CT. ANSWER TO RESPONDENTS MOTION TO DISMISS,P. 20).

On 27 NOVEMBER 1961, we learned through a friend, that Attorney WEGNER who was representing EVANSONS-ROSSOS, was no longer handling our case.

On 27 NOVEMBER 1961, we learned by telephone from Attorney WEGNER, the Restraining Order was withdrawn

by JUDGE JOHN A. WEEKS, WITHOUT JURISDICTION. (S. CT. ANSWER TO RESPONDENTS MOTION TO DISMISS, P. 22-23).

On 27 NOVEMBER 1961, ATTORNEY GENERAL OF MINNESOTA, WALTER MONDALE was SUBPOENAED by MELBA P. EVANSON, to appear in Mpls. Municipal Court.

NO APPEARANCE was made by Attorney General WALTER MONDALE, or his assistants, on hearing day, 28 NOVEMBER 1961. INSTEAD, the Ramsey County Sheriff, St. Paul, Minn., returned the Subpoena and service fee, by mail, with a notation: "WILL NOT ACCEPT SERVICE AS CASE WAS DECIDED". (S.CT. RECORD, Pages 87 thru 94 - (SUBPOENA)

On 28 NOVEMBER 1961, ATTORNEY CARL O. WEGNER appeared in Mun. Court to represent MELBA P. EVANSON in the Unlawful Detainer Case against MRS. FLORENCE MADY, a Tenant, for non-payment of rent. NEITHER MRS. MADY, NOR her Attorney FRANK M. FUDALI appeared. Atterney WEGNER requested Judge DONALD T. BARBEAU for a two (2) week stay, and the Court granted the request. Attorney WEGNER left the Courtroom obviously pleased that the two week stay was granted and there was no hearing this date, 28 NOV. 1961.

On 28 NOVEMBER 1961, EVANSONS-ROSSOS filed in the MINNESOTA STATE SUPREME COURT, an application for Extraordinary Relief, CASE No. 38634, HEARING DATE: 7 DECEMBER 1961. (S.CT. RECORD, Pages 95 thru 99).

On 30 NOVEMBER 1961, at 9:00 A.M., WITHOUT NOTICE WARNING, OR PROBABLE CAUSE, Mr. MELVIN C. GITTLEMAN again appeared, together with 20 to 30 Minneapolis POLICEMEN, AND, WALTER B. ERICKSON, AND MR. C.W. ZANE, POLICE OFFICERS, N. W. HOLDING COMPANY AGENTS AND EMPLOYEES, MOHAWK TRANSFER AND STORAGE COMPANY, TOGETHER WITH OTHERS, A N D I N C O N T E M P T of the Minnesota State Supreme Court (HEARING DATE 7 DECEMBER 1961,) AND Minneapolis Municipal Court (HEARING DATE 1 DECEMBER 1961) AND the RESTRAINING ORDER, dated 21 NOV. 1961, signed by JUDGE JOHN A. WEEKS; MELBA P. EVANSON and both children, ages 5 and 7 years, all in bed sick, were awakened by a thundereus knock on the partment front deer of the HOMESTEAD PROPERTY. WITH THE SAME WRIT OF RESTITUTION, the HOMESTEAD PROPERTY and ever 6,000 POUNDS of OWNER OCCUPANTS' EXEMPT PERSONAL PROPERTY AND POSSESSIONS WERE SEIZED BY FORCE, VIOLENCE, AND TERROR: N. W. HOLDING CO., ARE STILL HOLDING THE SAME, TO DATE.

(S E E : S.CT. ANSWER TO RESPONDENTS MOTION TO DISMISS, PAGE 24, Items 117 through 138.)

On 6 DECEMBER 1961, by Regular Mail, MELBA P. EVANSON received "RESPONSE OF DEFENDANT NORTHWEST HOLDING CO. TO PLAINTIFF'S PETITION AND MOTION" with attached AFFIDAVIT, both signed by ATTORNEY ARNOLD I. FEINBERG, CASE NO. 38634, IN SUPREME COURT, STATE OF MINNESOTA. (S.CT. RECORD, P. 100 thru 104.)

On 6 DECEMBER 1961, by Registered Mail Special Delivery, EVANSONS-ROSSOS served MEMORANDUM TO AID THE COURT A N D ANSWER TO RESPONSE OF DEFENDANT. (S.CT. RECORD, P. 105 thru 112.)

On 13 DECEMBER 1961, EVANSONS-ROSSOS received a letter from MAE SHERMAN, Clerk of Supreme Court, Case No. 38634, stating, "IT IS ORDERED that the petition for special relief be, and the same hereby is denied."

WHEN IN FACT, NO HEARING WAS HELD BY THE COURT.

On 21 JUNE 1963, a timely APPEAL IN MINN. SUPREME COURT, CASE No. 38771, was dismissed, even though an APPLICATION FOR DEFAULT JUDGMENT had been served and filed. (NO RESPONSIVE PLEADINGS WERE MADE BY N. W. HOLDING COMPANY).

(SEE: OPINION of the Minn. S.CT., entered 21 June 1963, at 265 Minn. 562).

On 22 NOVEMBER 1963, Minn. SUPREME COURT denied a timely PETITION FOR REHEARING # 38771.

On 13 DECEMBER 1963, a PETITION FOR REMOVAL to FEDERAL DISTRICT COURT was filed with the Clerk of Court.

On 26 DECEMBER 1963, Defendant, N.W. HOLDING CO. made MOTION FOR DISMISSAL.

On 31 DECEMBER 1963, Plaintiffs, EVANSONS-ROSSOS made MOTION FOR SUMMARY JUDGMENT.

On 13 JANUARY 1964, Hearing Day, Federal Dis. Ct., REMOVED CASE #4-63 Civ. 457, before JUDGE GUNNAR H. NORDBYE.

On 15 JANUARY 1964, JUDGE NORDBYE made ORDER, granting Defendant's MOTION FOR DISMISSAL.

IV. STATEMENT OF CASE

2. The Claim of Jurisdiction.

The APPELLANTS' CLAIM OF JURISDICTION IS BASED UPON :

A. THE REMOVAL STATUTE.

The Federal District Court, acquired ORIGINAL JURISDICTION, when a petition is made in accordance to Statute, 28 USC 1446, "Procedure for Removal", and the Marshal's Return is filed with the Clerk of Court.

B. CIVIL RIGHTS CASES.

The Federal District Court acquired ORIGINAL JURISDICTION, when a Petition is made to Remove by the Defendant, in accordance to Statute, 28 USC 1443, "Civil Rights Cases", and the Marshal's Return is filed with the Clerk of Court.

C. CIVIL RIGHTS AND CONSPIRACY STATUTE.

The Federal District Court shall have ORIGINAL JURISDICTION of any civil action authorized by law to be commenced by any person, because of the deprivation of any right or privilege, when a Petition is made in accordance to Statute, 28 USC 1343, and alleges wrongs mentioned in Section 1985 of Title 42, and the Marshal's Return is filed with the Clerk of Court.

IV. STATEMENT OF CASE

3. No Defense Made.

In U. S. District Court, Defendant, NORTHWEST HOLDING CO., A MINN. CORPORATION, made a MOTION TO DISMISS, return day, 13 JANUARY 1964.

The MOTION FOR DISMISSAL, cited NO SUPPORTING FACTS, instead, the motion contained only "bare bones" Pleadings.

1. "...petition fails to state a claim...."
2. "...the court lacks jurisdiction because there is no federal or constitutional question involved.."
3. "...no justified controversy is presented".

AN ATTACHED AFFIDAVIT, by Defendant's Attorney, did NOT cite supporting FACTS, but concluded, "It is respectfully submitted that this Court does not have the jurisdiction to review decisions of the Supreme Court of the State of Minnesota. Further affiant sayeth not. /s/ Arnold I. Feinberg".

PETITIONERS served and filed with proof of service, a timely MOTION FOR SUMMARY JUDGMENT against N.W. HOLDING CO.

PETITIONERS timely served and filed with proof of service, INTERROGATORIES, upon Defendant-President-Attorney ISRAEL MIRVISS of N.W. HOLDING COMPANY.

NO RESPONSE, OR OBJECTIONS to the INTERROGATORIES, were made by Defendant ISRAEL MIRVISS.

PETITIONERS timely served and filed with proof of service, a MOTION FOR SUMMARY JUDGMENT against Defendant-President-Attorney ISRAEL MIRVISS of N.W. HOLDING COMPANY.

ON HEARING DAY, 13 JANUARY 1964, before the Honorable Judge GUNNAR H. NORDBYE, Attorney ARNOLD I. FEINBERG, appeared for the Defendant, and CLAIMED Defendant, N.W. HOLDING CO., should be absolved from any suit, because they have now "sold" the property in issue.

A PRINCIPAL DEFENDANT FAILED TO APPEAR TO REPRESENT N. W. HOLDING CO.

(S E E : TRANSCRIPT, Case No. 4-63 Civ. 457, Dated 13 JANUARY 1964, PAGE 5, Line 3 thru 22).

MR. FEINBERG: "I have every confidence that this case will eventually wind up in the United States Supreme Court, but I only hope that the Northwest Holding Company can be exonerated

from this because we in turn have now sold the building. All we did was buy a building from the proper owner of the building, make a mortgage on it, hold it for awhile and resell it. It was while we held it that we were in the unfortunate position of being the ones to bring the unlawful detainer action against these people, and it has brought upon us two years of litigation, and we will never buy a building under those circumstances again."

THE COURT: "Well, what are the plaintiffs seeking in their complaint here?"

MR. FEINBERG: "Review of the Supreme Court's decision, as far as I can gather, and I am moving for a dismissal on the basis that it lacks Federal jurisdiction. I don't see what the question is involved over which this Court would have jurisdiction".

Attorney ARNOLD I. FEINBERG's statements on 13 JANUARY 1964, to the Federal Court, are ABSURDITIES, to say the least, because, as an attorney and as a Court Agent, he has taken an Oath of Office, and presumably has a DUTY and OBLIGATION to the Court, the Profession, and to the Public.

SEE: Minn. St. Ch. 481.06 GENERAL DUTIES. Every attorney at law shall:

Minn. St. Ch. 481.07 PENALTIES FOR DECEIT OR COLLUSION.

NOTE :: Attorney FEINBERG did not cite a landlord-tenant relationship, NOR, the unlawful entry of the possession of another.

1. "....we in turn have now sold the building".

   Note: The Registered Absolute Homestead Owner, Melba P. Evanson, HAS NOT CONVEYED TITLE to anyone.

   N.W. HOLDING CO., a Minn. Corp., HAS NEVER held title to the Homestedd Premises, and without TITLE, "sold the building", is impossible.

2. "All we did was buy a building from the proper owner of the building.".

   Note: Minn. St. Ch. 508.02, as well as ALL of the States that have adopted the Torrens System, PROHIBIT acquiring title in derogation of the Registered Owner by prescription, or by adverse possession.

3. "...make a mortgage on it..."

   Note: 129 Ala. 281 "The chancery court never entertains a bill to remove clouds in the sape of deeds which are void." 54 Ala. 291..

   "The deed was absolutely void, not merely voidable, and therefore a nullity. Being void, no title passed by it to H.Z.W., and of course, the mortgage executed by him conveyed none. 127 Ala. 577..."

4. "...hold it for awhile and resell it."

   Note: A "button, button, who has the Button?" game, could not be compared to a business transaction involving Registered Property.

N.W. HOLDING CO., A MINN. CORP., hopes to be "exonerated" from a suit for the RIGHT OF POSSESSION

OF PLAINTIFFS' HOMESTEAD PROPERTY, PLAINTIFFS' EXEMPT PERSONAL PROPERTY (Seized by FORCE, VIOLENCE AND TERROR) and AFFIRMATIVE, EQUITABLE RELIEF, BY THE SIMPLE EXPEDIENCY OF "twice transferring a prescription title, to innocent third-parties".

SEE: MINNESOTA STATUTES CH. 508.01

...Title to registered land is not acquired by prescription or adverse possession.

SEE: Patton Titles West Publishing Co.
Section 522 Transfers of Title by Decree of Court.

The validity of all official conveyances depends directly or indirectly upon some judgment or decree. If the latter is lacking, or is invalid, the conveyance, together with any intermediate writ or sale, is void, and no title passes to the purchaser. 13 N.W. 71 97 U.S. 444 101 N.W. 293

The rule of caveat emptor applies with full force. 47 SW 2d 802 42 NW 321 22 Minn. 224 and the purchaser of a title derainged from such a conveyance needs to examine, not only the instrument, itself, but as to the existence and validity of the judgment upon which it is based. It is hardly conceivable even quite likely to be marketable because of the presumptions as to jurisdiction and regularity of proceedings, but neither of these facts will obviate jurisdiction defects, if any in the anterior proceedings.

SEE: S.CT. RECORD, P. 219)

4th ED., BLACK'S LAW DICTIONARY, P. 685

EXONERATION The removal of a burden, charge, or duty. Particularly, the act of relieving a person or estate from a charge or liability by casting the same upon another person or estate. 114 Ky. 787, 71 S.W. 916; 39 Fed. 898.

The right which a person has who has been compelled to pay what another should be forced to pay in full. 124 Conn. 227. 199 A. 93, 94.

The "two innocent third-parties (ATTNY. FRANK M. FUDALI AND FIDELITY SECURITIES & INVEST. CO., A MINN. CORP.) whose rights have now intervened", DID PERSONALLY KNOW the premises involved was the EXCLUSIVE, NOTORIOUS, HOMESTEAD POSSESSION, of the DAN ROSSO FAMILY, Continuously and Uninterrupted, for over 20 years, and some Officers, and Stockholders, knew for as long as 42 years. (S.CT. RECORD, P. 43a). Also, the "two innocent third-parties", are not illiterate, or uneducated, or mentally deficient, BUT INSTEAD, are learned in the law, and/or learned in business practices, and ARE ENGAGED, in Modern Law, and/or Business Practices and Procedures.

5. "It was while we held it that we were in the unfortunate position of being the ones to bring the unlawful detainer action against these people,..."

Note: Plaintiffs, prior to the letter dated August 18, 1961, signed by I. Mirviss, did not even know of the existence of N.W. Holding Co. (S.CT. RECORD, P. 29)

Plaintiffs, prior to the Complaints in Unlawful Detainer did not even know of the existence of Attorney Arnold I. Feinberg. (S.CT. RECORD, P. 1)

The Complaint in Unlawful Detainer did not state a cause of action to give the Mpls. Municipal Court JURISDICTION. (S.Ct. RECORD, P. 1)

232 Minn. 91 Jurisdiction of the subject matter is to be tested by the authorized extent of the powers of the Court in respect to the cause of action before it.

A court without jurisdiction of the subject matter of the action cannot acquire jurisdiction by erroneous decision that it has jurisdiction.

A judgment rendered by a court without jurisdiction of the subject matter of the action is void, and the defendant may raise and reiterate the object of want of jurisdiction at any stage.

N. W. HOLDING CO., not only mailed a letter dated 18 August 1961, to the Registered, Homestead Owner, but ALSO, brought the Unlawful Detainer Actions, a malicious use and abuse of process, and ALSO, by FORCE, VIOLENCE and TERROR, invaded the

Homestead Premises; Seized the EXEMPT PERSONAL PROPERTY of the HOMESTEAD OWNER, and STILL HOLDS POSSESSION of the Homestead and Exempt Personal Property.

6. "...and it has brought upon us two years of litigation, and we will never buy a building under these circumstances again".

4th ED., BLACK'S LAW DICTIONARY, P. 308

CIRCUMSTANCES Attendant facts. 304 Pa. 326, 156 A 106, 109.

The Surroundings at the commission of an act.

The Defendant, N.W. HOLDING CO., A MINN. CORP., should inform the Court, the actual "circumstances", surroundings, and conditions, under which N. W. Holding Co., "will never buy a building under those circumstances again", and NAME ALL PARTICIPATING PARTIES.

TO THE COURT :

The "CIRCUMSTANCES" relate to interlocked series of transactions, dated from

18 AUGUST 1961, (when N.W. Holding Co. sent EVANSONS a registered mail letter to "..vacate the premises...within seven days..")

16 AUGUST 1961, N.W. HOLDING CO., "purchased a quit claim deed" from Wm. Holmes. (S.CT. RECORD, P. 2)

18 AUGUST 1961, Twin City Federal Savings & Loan Association, Mpls., granted MORTGAGE NO. 666315, $28,000 to N.W. HOLDING CO., secured upon APPELLANTS' HOMESTEAD PROPERTY. (S.CT. RECORD, P. 43a)

NOTE : The MINN. SUPREME COURT RECORD, Page 43a, contains the following :

Reg. of Deeds INDEX BOOK indicates:

"1st Fdrl. S&L Assn. Mtg. dtd 8/18/64
No. 3303935"

THE COURT will find these circumstances enumerated in a paper filed in Federal Dis. Ct. Case 4-63 Civ. 457, dated 31 MARCH 1965, PAGES 5 thru 10.

FROM: 18 AUGUST 1961 through 26 NOVEMBER 1963.

IV. STATEMENT OF CASE

4. The Issues were not Tried.

In the STATE COURTS, the I S S U E, RIGHT OF POSSESSION of the Premises involved, WAS NOT DETERMINED by Findings, in the Minneapolis Municipal Court, NOR in the Minnesota State Supreme Court, where the seven actions were consolidated.

In the U. S. DISTRICT COURT, the Court did not rule on ANY ISSUE, but instead, granted Defendant's MOTION FOR DISMISSAL, without showing jurisdictional deficiencies.

IV. STATEMENT OF CASE

5. The Facts Disclosed by the Evidence.

At the commencement of the spurious Unlawful Detainer Actions, the APPELLANTS were in quiet, exclusive, notorious, continuous, and uninterrupted POSSESSION of the HOMESTEAD PROPERTY since the year 1919.

NO EVIDENCE was introduced to show this RIGHT OF POSSESSION was not in accordance to Law.

The Federal and State Constitution does guarantee the RIGHT TO OWN PROPERTY.

The Federal and State Courts do guarantee the RIGHT TO PEACEABLE POSSESSION. 119 U.S. 608
28 Minn. 471.

The N. W. HOLDING CO., introduced as evidence of ownership, a "Torrens Title", that left the REGISTERED HOMESTEAD OWNER'S TITLE out of view.

In NONE of the States that have adopted the Torrens System, may title to registered property be obtained by prescription or adverse possession. (Minn.St. Ch. 508.02)

The N.W. HOLDING CO., introduced as evidence of ownership, a "Mortgage" obtained by N.W. HOLDING CO., from Twin-City Fed. Sav. & Loan Assoc.

IV. STATEMENT OF CASE

6. Challenging the Following Quoted.

Regarding the dated 15 JANUARY 1964 ORDER, by the Honorable Judge GUNNAR H. NORDBYE, which states in part:

"Obviously, this court has no jurisdiction to entertain petitioners' petition to review this decision of the Supreme Court of the State of Minnesota or any of the subsequent orders therein. It follows, therefore, that respondent's motion to dismiss the petition herein must be granted. It is so ordered."

When a PETITION is made in accordance to the "Procedure For Removal", 28 USC 1446, and Return thereof made to the Clerk of Court, and said Petition is for any cause dismissed, the District Court shall nevertheless enter its judgment in said action, affirming the judgment of the state court removed from, and the costs of both courts may be

taxed before the Clerk of the District Court, and entered in said judgment, and the respondent have execution therefor against the Appellant upon the removal bond, as in other cases. (SEE: 28 USC 1450).

HOWEVER: The Federal District Court, upon the dismissal of the PETITION, C A N N O T enter judgment of affirmance, and include therein, the supposed judgment of the State court in a case WHERE NO RETURN HAS BEEN MADE IN THE STATE COURT SHOWING SERVICE UPON DEFENDANTS PAUL ROSSO AND PAULINA ROSSO.

Regarding the dated 20 DECEMBER 1965 ORDER by the Honorable Judge GUNNAR H. NORDBYE, which states in part:

> "...All motions heretofore filed and as to which no orders have been made by this Court are denied with prejudice."

See: Key numbered digest.
Judgment, Key 565.

A "dismissal with prejudice", is equivalent to an adjudication upon the merits and will operate as a bar to a future action.

See: Courts, Key 405

If language used by court clearly evidences judge's intention that it shall be his final act, it constitutes a final judgment.

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The APPELLANTS challenge the above Orders as an UNSUPPORTED CONCLUSION, erroneous as a matter of law, in that the basis, if any, of the Orders, is nowhere stated or supported by any facts or principles of law.

The reason the above ORDERS are erroneous, is that, APPELLANTS' Constitutional, Statutory, Common Law and Other Inherent Rights, by overwhelming evidence, directly contradicts the ORDERS BY THE COURT.

N O T E :

The Plaintiff, in Unlawful Detainers, N.W. Holding Co., raised several FEDERAL QUESTIONS, by alleging Title, Ownership, Mortgage, and the Right of Possession, in the Complaints.

The N. W. Holding Co., by Force, Violence, and Terror, seized the HOMESTEAD PREMISES, together with the EXEMPT PERSONAL PROPERTY THEREIN, WHILE THE OWNER PROTESTED, DID RAISE SEVERAL FEDERAL QUESTIONS.

The MERITS of the FEDERAL QUESTIONS have been expressly DENIED, by the Minneapolis MUNICIPAL COURT, the Hennepin County DISTRICT COURT, and the Minnesota State SUPREME COURT. (See: S.CT. PETITION FOR REHEARING).

The FEDERAL DISTRICT COURT, ruled erroneous, by dismissing with prejudice, the Removed Action, though FEDERAL QUESTIONS have been raised from the start.

V. STATEMENT OF POINTS TO BE ARGUED AND AUTHORITIES RELIED ON.

1. The Nature of the Case.

This is primarily a CIVIL AND CRIMINAL CONSPIRACY CASE, conducted through an interlocked series of transactions, to deprive APPELLANTS, through "malicious process", entitled "suits", - "Garnishment"; "Land Registration Proceedings"; and "Unlawful Detainer Actions", of MONEY, and of their ABSOLUTE HOMESTEAD PROPERTY, and EXEMPT PERSONAL PROPERTY.

2. N. W. HOLDING COMPANY, Asserted Rights - Federal In Nature.

The Plaintiff, N.W. Holding Co., in the Unlawful Detainer Actions, against EVANSONS & ROSSOS, asserted R I G H T S Federal in nature, namely :

TITLE, MORTGAGE, and OWNERSHIP, of the Homestead Premises,

TOGETHER WITH, the RIGHT OF POSSESSION OF THE PREMISES.

See: S.CT. RECORD, Page 1 and Pages 217 thru 228.)

The "Title and Ownership", alleged by N.W. Holding Co.,raises legal questions under the U. S. Constitution, ARTICLE IV, Sec. 1, 2, and 4, ARTICLE VI, Amendments 4, 5, 6, 7, 9, and 14.

Under the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution, the following Statutes would raise legal questions :

28 USC 1343 CIVIL RIGHTS AND ELECTIVE FRANCHISE

28 USC 1356 SEIZURES NOT WITHIN ADMIRALTY AND MARITIME JURISDICTION.

28 USC 1441 ACTIONS REMOVABLE GENERALLY

28 USC 1443 CIVIL RIGHTS CASES

28 USC 1738 STATE JUDICIAL PROCEEDINGS

28 USC 2001 et seq.; JUDICIAL SALES STATUTE

42 USC 1983 et seq.

42 USC 1985

3FRD 289 An informers action under the false claims statutes, 18 USC 287 and 1001, although penal in character, is a "civil action" to which the F.R.C.P. apply.

18 USC 287 FALSE, FICTITIOUS OR FRAUDULENT CLAIMS.

18 USC 1001 STATEMENTS OR ENTRIES GENERALLY.

The above entitled cause, is an action of a Civil Nature, and is brought under 18 USC Sections 241, 242, 286, 287, 371, 495, 641, 656, 1001, 1018, 1021, 1506, 2071, 2073, and is a case arising under the laws of the United States.

3. EVANSONS AND ROSSOS ASSERTED POSSESSION, TITLE, AND HOMESTEAD RIGHTS.

The Defendants in Unlawful Detainer, EVANSONS & ROSSOS, Homestead Property Owner, in POSSESSION of the Premises, at the commencement of the action, were in quiet, exclusive, notorious possession, and asserted TITLE, recorded in the Hennepin County Register of Deeds, by Warranty Deed, BOOK 2220, PAGE 494, and HOMESTEAD RIGHTS, continuous and uninterrupted since the year 1919.

(S. CT. RECORD, P. 74. S.CT. BRIEF, P. 99-100.
(S. CT. ANSWER TO RESPONDENTS MOTION TO DISMISS, P. 32.

U. S. Constitution, Amendment 4, 5.

Minnesota Constitution, Article 1, Section 12.

Minn. Statutes Ch. 510, 550.37.

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4. EVANSONS AND ROSSOS' RIGHT OF POSSESSION.

The NORTHWEST HOLDING COMPANY, by Attorney ARNOLD I. FEINBERG, instituted spurious Unlawful Detainer Actions against EVANSONS-ROSSOS, in which the Complaints entirely OMITS the allegation of facts essential to the right of recovery, as required by Minn. Statute Ch. 566, AND, the pleadings by Attorney-President ISRAEL MIRVISS, N. W. Holding Co., in Mpls. Municipal Court, on 26 SEPTEMBER 1961, before JUDGE BRUCE C. STONE, could not support a judgment, RIGHT OF POSSESSION, in favor of N. W. Holding Company. (S. CT. RECORD, P. 1 and P. 41.)

The Complaints in Unlawful Detainer, DID NOT VEST THE COURT WITH JURISDICTION to DETERMINE THE RIGHT OF POSSESSION.

The Court, WITHOUT JURISDICTION, COULD NOT TERMINATE the Defendants EVANSONS and ROSSOS' RIGHT OF POSSESSION. (S.CT. RECORD, P. 55.)

The WRIT OF RESTITUTIONS, issued by a deputy clerk of District Court, WITHOUT JURISDICTION, WITHOUT FINDINGS, WITHOUT STATING THE CAUSE OF

ACTION before the Court of Inquiry, and NOT SIGNED BY A JUDGE, as required by Statute, COULD NOT TERMINATE the Defendants EVANSONS and ROSSOS' RIGHT OF POSSESSION.

28 MINN. 461.

The UNLAWFUL SEIZURE, by FORCE, VIOLENCE and TERROR of the HOMESTEAD PREMISES, together with the EXEMPT PERSONAL PROPERTY, DID NOT TERMINATE the HOMESTEAD OCCUPANTS' RIGHT OF POSSESSION.

U. S. CONSTITUTION, Amendment 4 and 5.

119 U. S. 608

The TENANTS, in Possession under the Homestead Owner's Title, are still holding constructive possession of the premises for the Homestead Owner, and cannot acknowledge a Stranger's title.

Minn. St. Ch. 504 Landlord and Tenant.

27 Ark. 50

204 F 2d 242 (CA 8)

(SEE: S. CT. BRIEF 102-105.

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The Defendant EVANSONS, by ANSWER to the Unlawful Detainer Complaint, CLAIMED Rights, Immunities and Privileges, under the U. S. Constitution. (S.CT. RECORD, P. 7.)

The Defendant ROSSOS, WERE NOT SERVED in Unlawful Detainer, and did not make separate answer to the Complaint. (SEE: TRANSCRIPT OF PROCEEDINGS S. CT. RECORD, P. 44.)

"THE COURT: Any objection? In fairness to Mr. Rosso, he is shown in here, but there of "Not Found", Mr. Feinberg. I wonder if you ought not to give them a copy?

MR. FEINBERG: I shall be happy to. Do I understand they are making a general appearance here?

THE COURT: You folks are appearing here today to contest this matter, are you, Mr. Rosso and Mrs. Rosso?

MR. ROSSO: This is my mother, Paulina Rosso.

MR. FEINBERG: Here is a copy for her and here is a copy for you.

MR. ROSSO: This is homestead property under Minnesota Statutes 510."

5. EVANSONS' AND ROSSOS' TITLE AND HOMESTEAD RIGHTS.

EVANSONS and ROSSOS have asserted TITLE and HOMESTEAD RIGHTS in the premises, continuous and uninterrupted, in the SAME FAMILY since the year 1919.

The right to sell and convey the homestead is absolute and purpose of transfer is immaterial, as is amount of consideration paid. M.S.A. Ch. 510.01 510.07 First National Bank of Mankato v. Wilson 47 N.W. 2d 764. 234 Minn. 160.

Grantee of the homestead property acquired title to the property exempt or immune from claims of grantor's creditors, since grantor could sell and convey the homestead without subjecting it to any judgment or debt from which it was exempt in grantor's hand. M.S.A. Ch. 510.07 Sisco v. Paulson, 45 N.W. 2d 385 232 Minn. 250.

The owner of homestead property , while occupying portions of it, may rent other portions thereof, and the rentals derived from this source are exempt from process. M.S.A. Ch. 510.01. Wilson v. First National Bank of Mankato 60 N.W. 2d 69 239 Minn. 550, 40 ALR 2d 894.

6. N. W. HOLDING COMPANY, ASSERTED "MORTGAGE".

From the Supreme Court RECORD, Page 2, Complaint in Unlawful Detainer:

"In addition thereto on August 18, 1961, Northwest Holding Company did mortgage to Twin City Federal which mortgage was recorded on August 22, 1961. Said property being legally described as Lot 4, Block 9, Wilson's Re-arrangements of Blocks 2,3,6,7,9,10,11, 14,15,19,20,21,24,26,29,31,33,35,37,39 and 41 of

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East Side Addition to City of Minneapolis, commonly known as 2326 Central Avenue N. E., Minneapolis, Minnesota."

SEE: S.CT. RECORD, P. 227 (Attorneys' Opinion)

S.CT. RECORD, P. 43(a) NOTATIONS FROM THE REGISTER OF TITLES OFFICE.

S.CT. RECORD, P. 217 LETTER TO BOARD OF DIRECTORS, TWIN CITY FED.

S.CT. RECORD, P. 30 TWIN CITY FED. SAV. & LOAN ASSOC. PAID EVANSONS' HOMESTEAD TAXES.

VI. ARGUMENT.

This Court is petitioned to review the 15 JANUARY 1964 ORDER, and all subsequent orders, in accordance to the following :

1. The District Court should accept jurisdiction, and then show jurisdictional deficiencies, prior to granting Defendant's motion to dismiss.

224 F Supp 27 (Dec. 11, 1963)DC MINN., DEVITT, J.

"It is better rule for court to assume jurisdiction of actions under Civil Rights Act and then to consider claimed deficiencies on ground that complaint failed to state claim upon which relief can be granted. 28 USC 1343; 42 USC 1983, 1985"

2. The District Court should require ANSWERS to Plaintiffs' relevant interrogatories showing a claim exists, prior to granting Defendant's motion to dismiss.

37 FRD 62 Federal Civil Procedure Key 1269

Petitioner should be permitted to secure discovery so that matter of proper or improper venue can be more adequately decided on all actual available facts, rather than on technical motion to dismiss based on conclusory ex parte and self-serving statements which may not present the complete picture.

3. The District Court should consider whether the Petition satisfied the requirements of the REMOVAL STATUTE, prior to granting Defendant's motion to dismiss.

37 FRD 62 Monopolies Key 28(6.9)

Where complaint under Clayton Act satisfied requirements of rule as to general rules of pleading, rule as to conciseness, directness and consistency and rule as to form of pleadings and did not call for application of rule as to motion for more definite statement, and where clarification sought by defendants could, without undue difficulty, be secured by discovery procedure, motions directed toward clarification of complaint were denied. Fed. Rules Civ. Proc. rules 8(a, b), 10, 12(c), 28 U.S.C.A.

76 C.J.S. Sec. 94, Page 983 In order to authorize a removal under this statute, however, a violation of the equal protection clause of the 14th Amendment must be shown; some equal civil right must be denied...

4. The District Court should consider whether the Petition satisfied the requirements of the CIVIL RIGHTS ACT, prior to granting Defendant's motion to dismiss.

83 S.Ct. 1433 (1963)

2. Civil Rights Key 2

Purpose of Civil Rights Act were to override certain kinds of state laws, to provide a remedy where state law was inadequate, to provide a federal remedy where state remedy, though adequate in theory, was not available in practice, and to provide a remedy in federal courts supplementary to any remedy any state might have. 42 USCA Sec. 1983.

5. The District Court should consider whether the Petition satisfied the requirements of the CIVIL CONSPIRACY ACT, prior to granting Defendant's motion to dismiss.

202 F Supp 624 (1962)

27. Conspiracy Key 1

Elements of cause of action for conspiring to obstruct justice and deny civil rights are conspiracy to impede, hinder or obstruct justice with purposeful intent to deny equal protection of law, that the acts are done under-color of state law or authority, and that plaintiff be injured in person or property or be deprived of a civil right. 42 U.S.C.A. Sec. 1985.

6. The Court should consider whether the Petition satisfied the requirements of the JUDICIAL SALES STATUTE, prior to granting Defendant's motion to dismiss.

76 C.J.S. P. 950

...whenever a federal law grants a right of property or of action and a suit is brought to enforce that right, such a suit arises under the law creating the right within the meaning of the removal statute. 251 F 332; 204 F. 998.

324 F. 2d 450

Where plaintiff attempted in complaint in federal district court to state claim under federal Civil Rights Act, and specifically invoked statutes relating to that court's jurisdiction over certain civil rights actions, court had jurisdiction whether or not claim was stated.

7. The District Court should consider whether Plaintiff's Motion for Summary Judgment should be granted against N. W. HOLDING COMPANY.

36 F.R.D. 426 (1965 Pa.)

1. Federal Civil Procedure Key 2471

Answer making bare denial of negligence could create no genuine issue as to material fact precluding summary judgment for plaintiff. Fed. Rules Civ. Proc. rule 56(e), 28 U.S.C.A.

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AT PAGE 430. WHERE THE FACTS ARE ADMITTED BY THE DEFENDANT, AS HERE, IT IS THE DUTY OF THE COURT TO DECLARE THE LAW APPLICABLE.

8. The District Court should consider whether Appellee, N. W. HOLDING CO., AND THE SIX CONSOLIDATED ACTIONS, should be exonerated, by remaining SILENT ?

98 F.S. 745 The decision of the Supreme Ct. of Arkansas in Cotton v. White 131 Ark. 273, is persuasive.

There it was held that an attornment to a tax purchaser by one who had been in possession of lands as a tenant of the record owner was unavailing to oust the latter and put the tax purchaser in possession even where the tax purchaser had placed improvements on the land. The basis of the holding was that the tenant's attornment lacked notoriety even though accompanied by the tax purchaser's acts in putting improvements on the property.

204 F 2d 242 "...He(tenant) represents his landlord for the purpose of holding possession against third persons, but not for the purpose of acknowledging the title of third persons."

NOTE: The following case was heard in MINN. SUPREME CT., on 6 DEC. 1962, the SAME DAY, before the SAME JUDGES, that ruled in N.W. Holding Co. vs. EVANSONS ET AL, 265 MINN. 562.

265 Minn. 59. Minn. v. The Hanna Mining Co., Appellan

SYLLABUS

Under the circumstances presented by the record where a tenant no longer in possession of leased premises asserts his landlord's want of title as a defense in an action for rent accrued to the time the lease is cancelled, the rule applied is that where a tenant goes into possession of property under the provisions of a leasing agreement, receives the benefits for which he bargained, and has not been disturbed in his use and occupancy of the premises, he is bound by his contract to pay the rent and is estopped to deny the landlord's title.

2. Where a defendant was estopped as a matter of law from asserting the only defense raised by its answer and supplementary pleadings, the trial court was correct in granting summary judgment for plaintiff.

VII. CONCLUSION.

The Court has jurisdiction to review this Appeal.

202 F Supp. 624 (1962)

11. Courts Key 30

Jurisdiction continues until all issues, both of fact and law, have been finally determined.

80 ALR 2d 1362

Conviction of criminal offense without evidence as denial of due process of law.

145 Minn. 104

A homesteader loses no rights by failing to move to vacate an unauthorized levy on his homestead.

232 Minn. 250, at 251

So far as exempt property is concerned there are no creditors within the meaning of the statute.

24 Am. Jr. Fraudulent Conveyance Seq. 109

THIS INCLUDES HOMESTEAD PROPERTY.

27 Minn.156, 89 Minn. 247, 116 Minn. 483,

134 Minn. 440, 222 Minn. 221.

75 So. 2d 850

Prescription does not apply to an absolute mullity.

209 F (2d) 145 (CA 5)

40 - Consistency

The United States, in seeking a recovery under the False Claims Act (F.C.A. 31 Sec. 231-235) had a right to plead as many separate claims as it possessed, regardless of consistency, and the court was obligated to grant the relief to which the United States was entitled, even though not demanded in its pleadings.

2. The Court will find Appelle here, NORTHWEST HOLDING COMPANY, A MINNESOTA CORPORATION, has been SILENT, on all issues.

Appellee, by Complaints in Unlawful Detainer, CASE NOS. 33943, 33944, did not allege facts sufficient for the RIGHT OF POSSESSION. (S.CT. RECORD, P. 1)

PAGE 100A

In Minnesota State Supreme Court, Petition For Extraordinary Relief, CASE NO. 38634, Return Day 7 DECEMBER 1961, the Appellee by answer, DID NOT allege facts sufficient to show the RIGHT OF POSSESSION.

(S.CT. RECORD, P. 100)

(S.CT. RECORD, P. 103 - Appellee's attached Affidavit)

(S.CT. RECORD, P. 113 - ORDER, dtd. 13 DEC. 1961 - Minn. Sup. Court)

NOTE :

On Return Day, 7 DECEMBER 1961,

NO HEARING WAS HELD BY THE COURT.

SEE: 18 USC 1018 OFFICIAL CERTIFICATES OR WRITINGS.

In Minnesota State Supreme Court, APPEAL, CASE NO. 38771, Hearing Day, 6 DECEMBER 1962, NO RESPONSE, was made by Appelle, N. W. HOLDING CO., A MINN. CORP., NOR, did a Principal Defendant appear, to represent the Defendant in the Main Action, NOR, did a defendant appear in any of the SIX CONSOLIDATED ACTION.

In U. S. DISTRICT COURT, CASE NO. 4-63 CIV. 457, NO RESPONSE has been made by Appellee, NOR, has a Principal Defendant appeared.

3. The Court will find the SIX CONSOLIDATED CASES have been SILENT on the issue, RIGHT OF POSSESSION.

From: TRANSCRIPT, 1 June 1962 (S.CT. RECORD, P. 23a)

"MR. ROSSO: This is a quasi-criminal action. He should be here to present the plaintiff's side to the Court.

THE COURT: You haven't explained to me a single reason why any testimony of the City Attorney would be of any help to the Court in deciding this matter. How do you have any?

MR. ROSSO: Well, the Court, in precedig cases, has allowed intervention without making application according to the Rules of Civil Procedure, Rule 24. The Court in preceding cases has adjudicated title when they only have the power to Rule on the right of possession.

THE COURT: So what ?

MR. ROSSO: So I wish the City Attorney to aid the Court at this time."

(SEE: S.CT. RECORD, P. 9a - SUBPOENA served on the CITY ATTORNEY, and with proper modifications, on the COUNTY ATTORNEY and the U. S. DISTRICT ATTORNEY.

The Ramsey County Sheriff returned the SUBPOENA not served on the ATTORNEY GENERAL OF MINNESOTA, with the notation: "Not available for service". The Judge quashed all SUBPOENAS.

Respectfully submitted,

/s/ PAUL DAN ROSSO
PAUL DAN ROSSO
7 Ortman Street Southeast
Minneapolis, Minnesota, 55414

Telephone: 336-3559

Bound

UNITED STATES COURT OF APPEALS
EIGHTH CIRCUIT
ST. LOUIS, MISSOURI

CIV. NO. 18319

Gordon Evanson, Melba P. Evanson,
Paul Dan Rosso and Paulina Rosso,
Appellants;

vs.

Northwest Holding Company, a
Minnesota Corporation,
Appellee.

ORAL ARGUMENTS
10 OCTOBER 1966

MAY IT PLEASE THE COURT :

The Appellants have prepared Oral Arguments. The arguments are written and filed with the Clerk, so that the Court may follow the Oral Arguments without taking unnecessary notes.

The Court will also have for future reference, the facts which show the violations of Appellants' Rights arising from an interlocked series of transactions.

Also, if during the oral presentation, the Court should have a question, or request additional facts, the Appellant, after answering, will continue in an orderly presentation.

Respectfully submitted,
/s/ PAUL DAN ROSSO
PAUL DAN ROSSO

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT
September Term 1965

NO. 18319 - CIVIL

Gordon Evanson, Melba P. Evanson,
Paul Dan Rosso and Paulina Rosso,
Plaintiffs-APPELLANTS,

vs.

Northwest Holding Company,
a Minnesota Corporation,
Defendant-APPELLEE.

APPEAL FROM UNITED STATES DISTRICT COURT
FOR THE FOURTH DISTRICT OF MINNESOTA.

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Reference is made to:
United States District Court
District of Minnesota Fourth Division.
Case NO. 4-63 Civil 457

Gordon Evanson, et al, - PLAINTIFFS,
vs.
Northwest Holding Co., a
Minn. corp., - DEFENDANT.

((From : ORAL ARGUMENTS - 14 SEPTEMBER 1964 -
Judge GUNNAR H. NORDBYE))

The Issues before this Court for consideration, have been raised and re-raised in Our State Judicial System, in the Eight Separate Actions that were consolidated into a Ninth Action before the Minnesota State Supreme Court, CASE NO. 38771.

THE EIGHT SEPARATE ACTIONS were :

THE EIGHT SEPARATE ACTIONS WERE:

(1) Northwest Holding Co., SUPREME CT. CASE #38771
a Minnesota Corporation,
Plaintiff, SEE: RECORD Page 1

vs. UNLAWFUL DETAINER CASE # 33943

Gordon Evanson and
Melba P. Evanson,
Defendants.

---

(2) Northwest Holding Co.,
a Minnesota Corporation, SEE: RECORD Page 1
Plaintiff,

v. UNLAWFUL DETAINER CASE # 33944

Paul Rosso and Paulina Rosso,
Defendants.

---

(3) Melba P. Evanson, SEE: SUPPLEMENTARY
Plaintiff, RECORD
Page 1a

vs. UNLAWFUL DETAINER CASE # 34898

H. H. Weese,
Defendant.

---

(4) Melba P. Evanson, SEE: SUPPLEMENTARY
Plaintiff, RECORD
Page 1a

vs. UNLAWFUL DETAINER CASE # 34899

Mrs. Florence Mady,
Defendant.

Bound

(5) Melba P. Evanson,
Plaintiff,

vs. UNLAWFUL DETAINER CASE # 35596

Anchor Laundry Co., a Minn. Partnership,
Mr. William Hirsch Owner-Partner,
Defendant,

vs.
Fidelity Securities & Investment Co.,
a Minnesota Corporation,
Applicant Intervening Defendant.

---

(6) Melba P. Evanson,
Plaintiff,

vs. UNLAWFUL ENTRY CASE # 35598

Mr. and Mrs. Kenneth Mell, Jr.,
Defendant,

vs.

Fidelity Securities and Investment Co.,
a Minnesota corporation,
Applicant Intervening Defendant.

---

(7) Melba P. Evanson,
Plaintiff,

vs. UNLAWFUL ENTRY CASE # 35597

Mr. and Mrs. Albert A. Pion,
Defendant,

vs.

Fidelity Securities and Investment Co.,
a Minnesota corporation,
Applicant Intervening Defendant.

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(8) Fidelity Securities & Investment Co.,
a Minnesota corporation,
Plaintiffs,

vs. HENNEPIN COUNTY DISTRICT CT. CIVIL
CASE # 579917

Melba P. Evanson and Paul Dan Rosso,
Defendants,
and third-party Plaintiffs,

vs.

Ben K. Allison, third-party Defendant,

vs.

Attorney Edward P. Dietrich, third-party
Defendant.

NOTE : The TWO Unlawful Detainer Cases # 33943 and 33944, (N.W. Holding Co., vs Evansons & Rossos) were based on, made reference to, and incorporated, the FIVE (5) following actions :

(1) James Ledwein, Plaintiff,
vs. Henn. Cty. District Court
Civil Case # 532205
Paul Rosso, Defendant.

SEE: RECORD Page 155

---

(2) William Holmes, Plaintiff,
vs. Henn. Cty. District Court
Civil Case # 32765

Paul Rosso, Defendant.

SEE: RECORD Pages 133, 134, 205, 213

---

(3) James Ledwein, Plaintiff,
vs. Henn. Cty. District Court
Civil Case # 547205

Paul D. Rosso; Dan Rosso;
Pauline Rosso; and William Holmes,
Defendants.

SEE: RECORD Page 187

---

(4) William Holmes, Plaintiff,
vs. Unlawful Detainer Case # 32765
Paul Rosso, Defendant

SEE: RECORD Page 205 and 44

---

(5) In the Matter of the Application Of
William Holmes to
Register the Title to Certain Land

Henn. Cty. Dis. Ct. Case # 14838

SEE: BRIEF Pages 79 thru 91.

UNITED STATES COURT OF APPEALS
EIGHTH CIRCUIT
ST. LOUIS, MISSOURI

CIV. NO. 18319

Gordon Evanson, Melba P. Evanson,
Paul Dan Rosso and Paulina Rosso,
Plaintiffs-Appellants,

vs.

Northwest Holding Company,
a Minnesota corporation,
Defendant-Respondent.

(ORAL ARGUMENTS)
( )
(10 OCTOBER 1966)

APPELLANT'S INTRODUCTION :

My name is PAUL DAN ROSSO, and I would like to introduce my sister, Melba P. Evanson.

I am one of the Appellants for the RIGHT OF POSSESSION of Our HOMESTEAD PROPERTY, commonly known as 2324-2326 Central Avenue Northeast, Minneapolis, Minnesota, and return of Our Exempt PERSONAL PROPERTY, taken by domestic violence, under the "color of law", and for AFFIRMATIVE EQUITABLE RELIEF.

I. HOMESTEAD PROPERTY-REGISTERED TITLE OWNER.

The Record reveals that at the commencement of these several actions, the Appellants were the Record Title Owner of the DAN ROSSO HOMESTEAD PROPERTY, in open, actual, quiet, exclusive,

notorious, continuous, and uninterrupted possession, since the year 1919, with no incumbrances of any kind whatsoever, and without any legal proceedings pending.

DAN and PAULINA ROSSO, purchased the HOMESTEAD PROPERTY in the year 1919; a two story building, containing two apartments and two stores. They raised five children, while occupying a portion of the premises.

DAN ROSSO had a Barber Shop in a portion of the Homestead until his retirement, and rented the other portions of the Homestead. The ROSSO Family lived in one apartment, the EVANSON Family in the other apartment.

In 1959, DAN and PAULINA ROSSO, by Warranty Deed, transferred the HOMESTEAD title to MELBA P. EVANSON, their daughter, who occupied the adjoining apartment with her husband and two children.

The Record reveals that the property has been registered every year with the City Assessor for Homestead Tax Classification, and was TAXED on the basis of being the Occupants' HOMESTEAD.

The Records in the Register of Deeds Office, Hennepin County, Minnesota, show the property is properly registered in the name of MELBA P. EVANSON, the Homestead Appellant here.

At the commencement of these several actions, there were no incumbrances of any kind against the Homestead, such as unpaid taxes or special assessments, or mortgages, or workmen's lien, or materialman's lien, nor were there any condemnation or eminant domain proceedings pending.

The Minnesota Constitution, Article 1, Sec. 12, provides for HOMESTEAD and PERSONAL PROPERTY EXEMPTIONS.

Minn. Statutes Ch. 510. HOMESTEAD EXEMPTIONS and Chap. 550.37, PROPERTY EXEMPT, were enacted according to the Minnesota Constitution.

On numerous occasions, Our Minnesota State Supreme Court has supported these statutes and Constitutional Rights, as reported in :

145 Minn. 104, at Page 106, which states in part:

Real estate which cannot be seized upon execution cannot be attached so as to give a lien thereon. Fletcher v. Tuttle, 97 Me. 491, 54 Atl. 1110. No creditor can redeem from an execution sale, unless he has a lien on the property sought to be redeemed.

The only lien asserted by plaintiff was by virtue of the levy made under her attachment. If the land was then the homestead of the defendant in the action, it was exempt from seizure and no lien was acquired by the levy under the writ. This is settled law. It was not necessary to protest the levy. The defendant could ignore it and ignore a sale upon an execution on any judgment that could be entered on the findings that were made in the case, and afterwards assert his homestead right as he has done in this answer. "The statute gives the exemption absolutely, and without making the right to it dependent upon any affirmative action upon the part of the person claiming it towards an officer levying or about to levy upon it." Ferguson v. Kumler, 25 Minn. 183.

223 Minn. 550, at Page 558.

In order to insure a stable and independent citizenry and thereby promote the public welfare, it has always been the policy of the law to protect with jealous zeal the homestead right of the citizen and his wife and minor children. This right is based on the fundamental conception that the home should be a citadel of security against the misfortunes and uncertainties of life. 3 Dunnell, Dig. & Supp. Sec. 4193.

232 Minn. 250

Since the owner may sell and convey the homestead without subjecting it to any judgment or debt from which it was exempt in his hands (M.S.A. 510.07), the grantee of the homestead property acquires title to the property exempt or immune from the claims of grantor's creditors.

234 Minn. 160, at Page 163.

The right to sell and convey the homestead is absolute, and the purpose of the transfer is immaterial, as is the amount of the consideration paid.

239 Minn. 550.

1. Rentals derived from homestead property, part of which is occupied by the owner thereof, are exempt from process under M.S.A. 510.01.

II. A STRANGER, NORTHWEST HOLDING COMPANY, A MINNESOTA CORPORATION, SOUGHT POSSESSION OF THE HOMESTEAD, UNDER "COLOR OF LAW".

In September 1961, the APPELLE here, the N. W. Holding Co., a Minn. Corp., instituted and served a spurious UNLAWFUL DETAINER ACTION against GORDON and MELBA P. EVANSON.

Also, the N.W. Holding Co., instituted a similar spurious UNLAWFUL DETAINER ACTION against PAUL ROSSO and PAULINA ROSSO, but service was never made.

The N. W. Holding Co., DID NOT bring Unlawful Detainer Actions against the TENANTS in possession of portions of the Homestead, under their Landlord's Title, namely Tenants MRS. FLORENCE MADY, MR. H.H. WEESE, and MR. WILLIAM HIRSCH.

The COMPLAINT in Unlawful Detainer against the Homestead Occupants, did not show a breach of contract to pay rent, or holding over after term, or the

invasion of the premises of another, or, a tenancy at will, together with the statutory months' notice to quit.

The COMPLAINT DID NOT state a cause of action, as required by Statute, to give the Municipal Court JURISDICTION.

On 26 SEPTEMBER 1961, AT THE COURT HEARING, before Judge BRUCE C. STONE, no evidence was introduced to SHOW that the N. W. Holding Co., had the Right of Possession, BUT INSTEAD, Attorney ARNOLD I. FEINBERG, representing N.W. Holding Co., introduced and alleged the following RIGHTS - Federal in Nature :

1. A Torrens Title, that left the Owner's Title out of view, (STATUTE 508), invoking a Federal Constitutional Right, ARTICLE IV. SEC. 1, and a Federal Statutory Right, 28 USC 1738. State...judicial proceedings, full faith and credit.

2. A Sheriff Sale of Exempt Homestead Property, (STATUTE 510), invoking a Federal Constitutional Right, ARTICLE IV. Sec. 1, and Federal Statutory Right, 28 USC 1739. State..non judicial proceedings, full faith and credit.

3. A Judgment in HOLMES v. ROSSO, an alleged specific performance suit, invoking 28 USC 1738.

4. A Judgment in LEDWEIN v. ROSSO, an alleged assault & battery case, invoking 28 USC 1738.

5. A Judgment in LEDWEIN v. PAUL ROSSO, DAN ROSSO, PAULINA ROSSO, and WILLIAM HOLMES, an alleged fraudulent transfer of Exempt Homestead property to defraud creditors, invoking 28 USC 1738.

6. The Right to purchase at a Sheriff Sale, to Torrens Title, Record, and mortgage the Homestead property. U. S. Const. ARTICLE IV, SEC. 1, and 28 USC 1739.

S.CT. RECORD, P. 30. Second half of HOMESTEAD TAXES paid by Twin City Fed. Sav. & L. A.

S.CT. BRIEF, P. 110. First half of HOMESTEAD TAXES paid by Melba P. Evanson.

7. The Right of Possession of the Homestead Premises, a Common Law Right, guaranteed by the Northwest Ordinance of 1787.

TRANSCRIPT OF PROCEEDINGS S.CT. RECORD, P. 53.
MINNEAPOLIS MUNICIPAL COURT

JUDGE BRUCE C. STONE 26 September 1961.

THE COURT: Did they have notice of the Attorney's Proceedings ?

MR. FEINBERG: Their names aren't mentioned as being tenants at sufferance, Your Honor, in the Decree—rather—in the Order and Decree. As far as the plaintiff here is concerned, the plaintiff here is dealing with a man named Hedmes, who appeared to have marketable title. He appeared to have title guaranteed by the State of Minnesota and the plaintiff is a bonafide purchaser of value and went out and placed the mortgage with Twin City Federal. The plaintiff here isn't aware of these peoples' rights, if any, and they have been judicially determined. I don't know what more can be said.

THE COURT: The Writ will be issued. Give them a five-day first.

MR. FEINBERG: Yes, Your Honor.

THE COURT: Stay until the 1st of October. I have no alternative but to issue the Writ. The exhibits may be withdrawn, Mr. White.

(Whereupon, at the hour of 2:45 o'clock p.m., the case was concluded).

The Municipal Court DEPUTY CLERK, not authorized by Statute (Chap. 566), WITHOUT JURISDICTION, issued a WRIT OF RESTITUTION, without findings, that did not show the cause of action before the Court of Inquiry.

A timely Motion to Set-Aside was "denied", by Municipal Judge LINDSAY ARTHUR. (S.CT. RECORD, P. 77, 81.)

290 F 2d 203 Cert. denied 82 S.Ct. 47

Generally, full faith and credit requires enforcement of judgment of state court in suit in federal court to enforce judgment, unless it is shown that judgment was entered without jurisdiction.

129 Ala. 281

The chancery court never entertains a bill to remove clouds in the shape of deeds which are void. 54 Ala. 291..

The deed was absolutely void, not merely voidable, and therefore a nullity. Being void, no title passed by it to H.Z.W., and of course, the mortgage executed by him conveyed none. 127 Ala. 577...

III. DOMESTIC VIOLENCE.

On 21 NOVEMBER 1961 at 2:00 P. M., in Mpls. Municipal Court, an Unlawful Detainer hearing was scheduled by MELBA P. EVANSON, against MRS. FLORENCE MADY, a TENANT in possession of portion of the

HOMESTEAD, for breach of contract to pay rent.

On 21 NOVEMBER 1961 at 9:00 A. M., without warning, armed with the above mentioned WRIT OF RESTITUTION, issued by a Deputy Clerk of Court, not signed by a judge as required by Statute, —— the MINNEAPOLIS POLICE, the N. W. HOLDING CO., their AGENTS, ATTORNEYS, and OTHERS, under the "color of law", with a SLEDGE-HAMMER, smashed open the HOMESTEAD PROPERTY Apartment Door while MELBA P. EVANSON tried to hold the door shut. A moving company quickly packed and removed the furniture, clothing and kitchen appliances (EXEMPT PERSONAL POSSESSION), in the Homestead premises.

On 21 NOVEMBER 1961, a neighbor, Attorney CARL O. WEGNER, obtained a RESTRAINING ORDER, from Judge JOHN A. WEEKS, and the furniture, et al were returned crated.

On 24 NOVEMBER 1961, APPELLANTS here, scheduled a Motion to Set-Aside the U. D. actions as VOID and UNCONSTITUTIONAL.

On Hearing Day, 24 NOV. 1961, Attorney ARNOLD I. FEINBERG requested a week delay, until 1 DEC. 1961, because he was going to St. Paul, for a court hearing.

Attorney CARL WEGNER appeared in Court and urged APPELLANTS here, to make arrangements to rent from N. W. Holding Co., or repurchase the property by paying $10,000 to N. W. Holding Co., and assuming the $28,000 mortgage.

On 28 NOVEMBER 1961, Judge JOHN A WEEKS, without timely application, two days notice for hearing, and without hearing, WITHDREW the Restraining Order. Attny. CARL O. WEGNER informed MELBA P. EVANSON by telephone.

On 28 NOVEMBER 1961, an Application was made to the MINNESOTA STATE SUPREME COURT for Extraordinary Relief. HEARING DAY: 7 DECEMBER 1961. (S.CT. RECORD, Page 95.)

On 30 NOVEMBER 1961, at 9:00 A.M., without warning, the N. W. Holding Co., their Attorneys, Agents, the Minneapolis POLICE, together with Others, by FORCE, VIOLENCE AND TERROR, under the "color of law", seized the HOMESTEAD PROPERTY, together with ALL the lifelng PERSONAL POSSESSIONS of GORDON L. EVANSON and FAMILY. The SAME Writ of Restitution was used, that had been restrained by Judge JOHN A. WEEKS. (See: U. S. Const. ART. IV., Sec. 4).

The 1 DECEMBER 1961 rehearing on the N. W. Holding Co. unlawful detainer action in Mpls. Municipal Court was rendered moot.

On 4 DECEMBER 1961, Attny. ARNOLD I. FEINBERG, made responsive pleadings in Minnesota Supreme Court, for N. W. Holding Co., that state in part:

> "...the U. D. Actions complained of in Plaintiff's Petition were duly instituted in accordance with law by this defendant to obtain possession".

(S. CT. RECORD, P. 100, 102.)

An attached Affidavit dated 4 Dec. 1961, signed by ARNOLD I. FEINBERG, states in part :

> "The basic problem in this litigation has been that plaintiffs appear in Court repeatedly without counsel, and, oblivious to admonitions to obtain counsel and oblivious to adverse rulings by various courts, they continue to commence new proceedings before new courts to attempt to re-litigate matters already adjudicated."

S E E : MEMORANDUM TO AID THE COURT

A N D

ANSWER TO RESPONSE OF DEFENDANT

(S. CT. RECORD, P. 105.)

IV. APPEAL MADE TO MINNESOTA SUPREME COURT.

On 13 DECEMBER 1961, the Minnesota Supreme Court "denied" the Application for Extraordinary Relief.

A timely PETITION FOR REHEARING was "denied". About three or four months later, Chief Judge ROGER DELL of the Minn. Supreme Court, retired.

Subsequently, PAUL DAN ROSSO talked to the new Chief Judge OSCAR R. KNUTSON, and learned that, "We (Sup.Ct.) never had that case". To verify this, Judge KNUTSON opened his small appointment book and on the page dated 7 December 1961, showed ROSSO there were no cases written therein.

When ROSSO asked Judge KNUTSON if another application for extraordinary relif should be made; he stated, "You have to appeal the same as everybody else".

In the Supreme Court, a timely APPEAL was made; served by Sheriff, and filed with proof of service.

N. W. Holding Co., made a Motion to Dismiss the Appeal as scandalous and irrelevant. The Supreme Court "denied" the motion. NO RESPONSIVE PLEADINGS WERE EVER MADE BY NORTHWEST HOLDING CO., Hearing Day was scheduled 6 DECEMBER 1962.

V. HOMESTEAD TENANTS BREACHED RENTAL PAYMENTS.

While the EVANSON-ROSSO Appeal was pending in Minn. Supreme Court, MELBA P. EVANSON started Unlawful Detainer Actions against TENANTS in portions of Homestead premises, namely, MRS. FLORENCE MADY, and Mr. H. H. WEESE, for breach of contract to pay rent.

On Hearing Day before Judge HERBERT ESTREM, the Homestead Owner was unsuccessful to obtain the Right of Possession, because of an alleged "Torrens Title", introduced by Attorney FRANK M. FUDALI, a neighbor.

These two actions are found in the S. CT. SUPPLEMENTAL RECORD, Page 21a TRANSCRIPT.

Also, while the APPEAL was pending in Supreme Court, MELBA P. EVANSON started Unlawful Detainer Action against TENANT, Mr. WILLIAM HIRSCH, and UNLAWFUL ENTRY ACTIONS against the TRESPASSERS in the two Apartments, Mr. and Mrs. KENNETH MELL, JR., and Mr. and Mrs. ALBERT A. PION.

On Hearing Day, in the hallway outside the Courtroom, a DEPUTY SHERIFF appeared and served MELBA P. EVANSON, and PAUL DAN ROSSO, a COMPLAINT, and RESTRAINING ORDER, entitled :

FIDELITY SECURITIES & INVESTMENT COMPANY,
A MINNESOTA CORPORATION,
VS.
MELBA P. EVANSON and PAUL DAN ROSSO.

MELBA P. EVANSON was restrained from seeking the RIGHT OF POSSESSION from TENANTS in possession under their Landlord's Title in the Minneapolis Municipal Court.

The Restraining Order DID NOT contain findings that Appellants here, had violated any law, or had violated anybody's Constitutional Rights.

ATTORNEY FRANK M. FUDALI, a neighbor for about 20 years, within one block of the HOMESTEAD, had prepared the COMPLAINT, and Restraining Order, and represented FIDELITY SECURITIES & INV. COMPANY.

IN COURT, before Judge ELMER R. ANDERSON, the Homestead Owner was unable to obtain the Right of Possession, even though the Defendants HIRSCH, MELL and POIN, did not appear, nor were they represented

by Counsel, nor did the Defendants make Answer, or Answers to the ADMISSIONS OF TRUTH.

FIDELITY SECURITIES & INV. CO., by Attny. FRANK M. FUDALI, made Application to Intervene, and alleged Torrens Title by Affidavit, but DID NOT make answer to the Complaint, as required by the Court Rules. Judge ELMER ANDERSON would not grant the Homestead Owner the RIGHT OF POSSESSION.

VI. IN MINNESOTA SUPREME COURT.

Prior to 6 DECEMBER 1962, Hearing Day in Supreme Court, the above mentioned six (6) Actions, were CONSOLIDATED with the N. W. Holding Company Unlawful Detainer actions on APPEAL. The service of the Petition was made by Sheriff, and the Original and proof of service were filed with the Clerk of Supreme Court.

A timely APPLICATION FOR DEFAULT JUDGMENT was made against the N. W. Holding Co., because of the failure to make responsive pleadings.

In Minn. Supreme Court, on Hearing Day, 6 DECEMBER 1962, APPELLANTS appeared in their Own behalf.

Attorney ARNOLD I. FEINBERG appeared to represent N. W. Holding Co., a Minn. Corporation.

Attorney FRANK M. FUDALI appeared to represent FIDELITY SECURITIES & INVESTMENT COMPANY, A MINN. CORP., and Tenants MADY and WEESE.

Attorney GEORGE R. KODADEK appeared to represent Tenants MADY and WEESE.

Attorney MAURICE GROSSMAN appeared to represent Tenant HIRSCH.

NO PRINCIPAL DEFENDANT APPEARED.

The OPINION, 265 MINN. 562, was entered 21 JUNE 1963. Application for Default Judgment was made against each of the six (6) mentioned CONSOLIDATED Actions.

THREE timely Applications for REHEARING were denied by the Supreme Court.

VII. REMOVED TO FEDERAL COURT.

The consolidated cases were timely REMOVED to the Federal District Court, Fourth Division, Minnesota, and the Federal Court, became "possessed by statute", to adjudicate the consolidated cases.

The N. W. Holding Co., by Attorney ARNOLD I. FEINBERG, made MOTION TO DISMISS, because, "...obviously this court could not review an appeal of the Minnesota

Supreme Court". This motion was granted, and APPELLANTS' timely MOTIONS FOR SUMMARY JUDGMENT were not ruled upon.

APPELLANTS made numerous motions, served ADMISSIONS OF TRUTH, entered Exhibits, etc., but the Federal Court would not adjudicate, even though, NO RESPONSIVE PLEADINGS had been made.

293 US 52, 54; 55 Sup.Ct. 16 (1936) 125 US 18; 8 S.Ct. 741 (1888)

It is essential to the jurisdiction of this Court in reviewing a decision of a court of a State that it must appear affirmatively from the record, not only that a federal question was presented for decision to the highest court of the State having jurisdiction, but that its decision of the federal question was necessary to the determination of the cause, and that it was actually decided or that the judgment as rendered could not have been given without deciding it.

VIII. PETITION FOR MANDAMUS.

A timely PETITION FOR WRIT OF MANDAMUS, Case No. 18276, Evanson et al, vs. Frank A. Massey, Clk. of U.S. Dis. Ct. for the Dis. of Minn., and Hon. Edward J. Devitt, Chf. Judge, U.S. District Court for the Dis. of Minnesota, was "denied", by the Eighth Circuit Court of Appeals.

IX. APPEAL TO THE EIGHTH CIRCUIT COURT.

A timely APPEAL was made to the Court of Appeals, Eighth Circuit.

NO RESPONSIVE PLEADINGS were made by neither the N. W. Holding Co., a Minn. Corp., nor any of the SIX (6) CONSOLIDATED CASES.

X. NO TIMELY APPLICATION MADE TO WITHDRAW.

NO RESPONSIVE PLEADING has been made by either Attorney ARNOLD I. FEINBERG, or Attorney ISRAEL MIRVISS, representing the N. W. Holding Co., a Minn. corp.

SEE: Letter dated August 18, 1961, addressed to Gordon Evanson and Melba P. Evanson, from. Attorney Israel Mirviss, that states in part :

"...I am the attorney for the Northwest Holding Company which has purchased the property at 2326 Central Avenue NE..." (S.CT. RECORD, P. 29).

Neither Attorney ARNOLD I. FEINBERG, NOR Attorney ISRAEL MIRVISS have made a timely application to withdraw as Counsel for N. W. Holding Co., a Minn. corporation.

84 S. CT. 40 The motion of Claude Pepper for leave to withdraw his appearance as counsel for the petitioners is granted.

XI. OPEN, ACTUAL, QUIET, EXCLUSIVE AND NOTORIOUS POSSESSION.

The Record reveals, that at the commencement of these several actions, the APPELLANTS were in OPEN, ACTUAL, QUIET, EXCLUSIVE, and NOTORIOUS POSSESSION of the HOMESTEAD PROPERTY, CONTINUOUSLY and UNINTERRUPTED, since the year 1919.

In accordance to the Common Law Right of Possession, reported in 27 ARK. 46, and guaranteed by the N. W. Ordinance of 1787; and Minnesota Forcible Entry and Unlawful Detainer Statutes Chap. 566; and, adjudicated court cases for the entire history of Our Country, the APPELLANTS here, are legally entitled to be restored to the possession of the premises taken by FORCE, ORGANIZED VIOLENCE and TERROR, under the "color of law". 119 U. S. 608 Iron Mountain R.R. vs. Johnson ....at the foundation of all suits of forcible entry and detainer, that the law will not sanction or support a possession acquired by violence, but will, when appealed to in this form of action, compel the party who thus gains possession to surrender it to the party whom he dispossessed,

without inquiring which party owns the property or has the legal right to the possession.

At PAGE 609, the Court cited the Arkansas forcible entry and detainer statute, which is similar to the Minnesota Statutes.

At PAGE 611, the Court said :

> The general purpose of these statutes is, that, not regarding the actual condition of the title to the property, where any person is in the peaceable and quiet possession of it, he shall not be turned out by the strong hand, by force, by violence, or by terror. The party so using force and acquiring possession may have the superior title or may have the better right to the present possession, but the policy of the law in this class of cases is to prevent disturbances of the public peace, to forbid any person righting himself in a case of that kind by his own hand and by violence, and to require that the party who has in this manner obtained possession shall restore it to the party from whom it has been so obtained; and then, when the parties are in statu quo, or in the same position as they were before the use of violence, the party out of possession must resort to legal means to obtain his possession, as he should have done in the first instance. This is the philosophy which lies at the foundation of all these actions of forcible entry and detainer, which are declared not to have relation to the condition of the title, or to the absolute right of possession, but to compelling the party out of possession, who desires to recover it of a person in the peaceable possession, to respect and resort to the law alone to obtain what he claims.

In Denver R.P. vs. Harris, 122 U.S. 597, the Court affirmed and applied Iron Mountain P.P. vs. Johnson, 119 U.S. 608.

XII. TENANTS IN CONSTRUCTIVE POSSESSION.

The Record reveals, that at the commencement of these several actions, the APPELLANTS rented portions of the HOMESTEAD PREMISES to TENANTS, namely, MADY; WEESE; and HIRSCH.

In accordance to the Landlord-Tenant Common Law, reported in 27 ARK. 50, and guaranteed by the N. W. Ordinance of 1787, A N D, Minnesota Landlords and Tenants Statutes Chapter 504, A N D, Adjudicated Court Cases on Landlord-Tenant, for the entire history of Our Country, the APPELLANTS here, are still in constructive possession of the Homestead Premises through TENANTS who have attorned to strangers.

In State of Minnesota vs. The Hanna Mining Co., HEARING DAY in Minn. Supreme Court, 6 DECEMBER 1962, reported at 265 Minn. 59, action for rent, the Court said in part :

"...the rule applied is that where a tenant goes into possession of property under the provisions of a leasing agreement, receives the benefits for which he bargained, and has not been disturbed in his use and occupancy of the premises, he is bound by his contract to pay the rent and is estopped to deny the landlord's title."

Northwest Holding Co., vs. Evanson et al. was heard ON THE SAME HEARING DAY, 6 DECEMBER 1962, reported at 265 MINN. 562.

In Kimble v. Willey, 204 F 2d 238, the Eighth Circuit Court of Appeals on rehearing, affirmed the district court for a reconsideration of the question of adverse possession.

The Court HELD,

1. Adverse Possession Key 25

Under Arkansas law, tenant's possession is to be considered that of landlord in cases involving question of adverse possession.

2. Landlord and Tenant Key 63(3)

Under Arkansas law, tenant is estopped to deny landlord's title without surrender of possession under lease.

In Kimble v. Willey, 98 FS 730, the Court HELD,

11. Landlord and tenant Key 63(3), 68.

A tenant in possession under landlord claiming under one title may not, without yielding possession, acquire title hostile to that of his landlord or do anything to adversely affect landlord's title and possession, nor may he attorn to a title adverse to that of his landlord even though such title be better title than that of landlord.

12. Landlord and tenant Key 68

Attornment by tenant to stranger, without surrender of possession to tenant's original landlord, is void and does not affect possession of landlord, but renders tenant attempting to attorn a trespasser.

13. Adverse possession Key 25

Landlord and tenant Key 68

Tenant in possession under lease from adverse possessor of realty could not, without visible change in possession and without notice to his original landlord, subsequently execute lease and attorn to holder of record title, but such attempted attornment in no manner affected continued adverse possession of landlord through his tenant.

On 27 APRIL 1962, the Hennepin County Register of Deeds Office, recorded a HOMESTEAD NOTICE pursuant to Minn. Statute Chap. 510.07, for MELBA P. EVANSON. (SEE: Minn. S.CT. RECORD, P. 46a.)

XIII. JURISDICTION OF THE COURT OF APPEALS.

The record reveals, that NONE of the Federal District Court ORDERS appealed from; NOR, the Minnesota State Supreme OPINION (265 Minn. 562) and Rehearings REMOVED from; NOR, the Minneapolis Municipal Court's ORDERS appealed from, CONTAIN FINDINGS that SHOW : A relationship of landlord and tenant, and a breach of contract to pay rent, OR, holding over after term and one month's notice in writing to person in possession requiring him to remove, NOR, were FINDINGS made that SHOW :

A wrongful invasion without force of the premises of a prior possessor, and one month's notice in writing to person in possession requiring him to remove, NOR, have findings been made that SHOW:

A tenancy at will had been terminated by a one month's notice in writing to the person in possession requiring him to remove, NECESSARY prerequisites to obtain the RIGHT OF POSSESSION.

The Record reveals, that the APPELLANTS here, were in peaceable possession of the HOMESTEAD PREMISES at the commencement of the action, and N. W. Holding Co., by organized VIOLENCE seized the HOMESTEAD PREMISES, together with the personal possessions contained therein.

119 US 608 Iron Mountain R. R. vs. Johnson

The law will not sanction or support a possession acquired by violence.

The Record reveals, that the TENANTS in possession under their Landlord's Title, have breached their contract to pay rent, and their agency relationship, attorned to a stranger, in violation of the Common Law, the Minnesota Statutes, and the decisions of State and Federal Courts.

The Record reveals, that the spurious action by FIDELITY SECURITIES & INVESTMENT COMPANY, a MINN. CORP., against MELBA P. EVANSON and PAUL DAN ROSSO, was in concert with the actions of N. W. Holding Co., to deprive under "color of law", the APPELLANTS here, of their HOMESTEAD PREMISES.

The Record reveals, that the Record Title Owner of the HOMESTEAD PROPERTY, is MELBA P. EVANSON, properly recorded by Warrenty Deed in the Pegister of Deeds Office.

The Record reveals, that the spurious Land Title Registration by WILLIAM HOLMES, was in concert with the Sheriff Sale of the HOMESTEAD PROPERTY; the spurious action by JAMES LEDWEIN vs. PAUL ROSSO, DAN ROSSO, PAULINA ROSSO, and WILLIAM HOLMES, A N D, the spurious action of —

HOLMES v. ROSSO in spurious Unlawful Detainer action,
HOLMES v. ROSSO in spurious Specific Performance suit,
A N D,

LEDWEIN v. ROSSO in spurious Assault & Battery action,
A N D,
LEDWEIN v. ROSSO & Fidelity State Bank, in the spurious Garnishment Summons.

Statutes 570.01 & 571.43 prohibit garnishments in assault & battery cases.

The Record reveals, that the N. W. Holding Co., and/or their Agents, took and carried away the GARAGES, together with the CONTENTS therein, that was located upon the Rear Portion of the HOMESTEAD PREMISES.

The Record reveals, that LEDWEIN, in a spurious Supplementary Proceeding, together with HOLMES, their Attorneys, Judge ROLF FOSSEEN, Sheriff ED RYAN, and OTHERS, under "color of law", had PAUL DAN ROSSO imprisoned for ten (10) days, WITHOUT a warrant for arrest, or a commitment order, because ROSSO would not "pay $50.00 at that table right now, and go to supplementary proceedings in Attorney SAMUEL SALITERMAN'S Office" before an employee of Attorney SALITERMAN.

The Record reveals, that the APPEAL was timely made to the Minnesota Supreme Court, and the Supreme Court had JURISDICTION of the action.

The Supreme Court erroneously alleged that the Court did not have jurisdiction because an Appeal was not made from the "writ of restitution", signed by a Deputy Clerk of Court.

The Statute clearly shows the Justice of Peace shall enter restitution. Minn.St. Ch. 566.16.

The Municipal Court Act, Sec. 11, Subd. 2, states, SECTION 566.01 to 566.16 apply to the Court.

61 S.CT. 572

Constitutional Law Key 1.

The Federal Constitution is the "supreme Law of the land" and the obligation to guard and enforce every right secured by that constitution rests on the state court equally with the federal courts.

36 F Supp. 233; 43 F.Supp 253

The term "any court of competent jurisdiction" includes state as well as federal courts, at least so far as suits of a civil nature arising under the laws of the United States are concerned.

219 F 2d 479

Government officials are bound to comply with valid decisions of the courts.

The Record reveals, that the SIX CASES were CONSOLIDATED in accordance to law by Sheriff Service, together with the two (2) Unlawful Detainer actions on APPEAL.

The Record reveals, that in neither the main actions, nor the consolidated actions before the Supreme Court, were RESPONSIVE PLEADINGS made.

The Record reveals, that the "opinion" of the Supreme Court was not made to the best of their knowledge and understanding on the Landlord-Tenant Laws, as rendered in 265 MINN. 59, Minn. v. Hannay Mining Co., N O R, was it made to provide a remedy for every wrong, nor, was it made in accordance to their OATH OF OFFICE.

The Record reveals, that the "opinion" of the Supreme Court was in concert with the objectives of LEDWEIN, HOLMES, their Attorneys, several JUDGES, the SHERIFF's OFFICE, the COUNTY ATTORNEY, the CLERK OF DISTRICT COURT, the CITY ATTORNEY, the MINNEAPOLIS POLICE, the BOARD OF DIRECTORS and some of the OFFICERS of TWIN CITY FEDERAL SAVINGS & LOAN ASSOC., the BOARD OF DIRECTORS and some of the OFFICERS OF FIDELITY SECURITIES & INVESTMENT CO., and the TITLE INSURANCE COMPANY.

The Record reveals, that those that had the power, duty, jurisdiction, and responsibility, to arrest and prosecute — stood silently by, namely, the REAL ESTATE LICENSING BOARD, CITY ATTORNEY, COUNTY ATTORNEY,

ATTORNEY GENERAL, and UNITED STATES ATTORNEY, after being personally notified of the unlawful violation of APPELLANTS' rights, which the facts show.

234 SW 2d 978 2. Landlord and tenant Key 291(8)

In action by purchaser for possession of leased premises, failure of petition to show relation of landlord and tenant and the terms of the lease under which defendant held the property or the exact amount of rent due, prevented plaintiff from recovering possession of premises. Mo. R.S.A. § 2994.

7. Forcible entry and detainer Key 5, 11(1)
Landlord and tenant Key 290(1)

Unlawful detainers can be a willful holding over without force, after expiration of a term, or a wrongful disseisin without force of prior possessor, and in first instance a demand in writing for delivery of possession is required before institution of action and in second instance a demand is indispensable, and also in second instance relation of landlord and tenant is unnecessary. Mo. R.S.A. § 2833.

8. Landlord and tenant Key 15, 290(1)

Where defendants were in lawful possession of premises sued for by plaintiff, who was a purchaser of property, and there was no attornment by defendants by paying of rent so as to cause relation of landlord and tenant to exist, plaintiff could not maintain an unlawful detainer action. Mo. R.S.A. §§ 2959 et seq., 2994, 2996, 2999, 3000, 3001.

28 Minn. 461 at 463.

....the judgment of restitution must be based upon a finding, which in its turn must be based upon inquiry, upon a hearing, upon a trial, of the complaint. This cannot mean anything less than that the complainant must prove his case, or, in other words, must prove enough of his complaint to make out his right to restitution. To this end he must adduce evidence, and, in the absence of it, the magistrate has no right to enter judgment for the restitution sought...

The Record reveals, the FEDERAL DISTRICT COURT did not inform the APPELLANTS of the reason for the Order of Dismissal, so that APPELLANTS could AMEND.

216 F 2d 743 (CA 3)

Examination by federal district court of "opinion" of state supreme court affirming conviction for murder did not constitute an examination of the "record".

328 F 2d 296 (1964) Ark)

Judgment Key 828 (3.20) Validity of judgment

Federal district court was neither required nor entitled to give full faith and credit to state court decree if it was constitutionally void.

XIV. CONCLUSION.

The pertinent record appears fully before the Court of Appeals, and the controverted questions have actually been argued in the State Courts, and the Federal Courts.

The Record in the Court of Appeals is complete, and the questions tendered have been briefed and argued.

343 F 2d 635, C.A. Iowa 1965

Court's Key 405 (16.10)

Appellate court has measure of discretion in considering appellant's claim of error, even despite its inadequate assertion, especially when pertinent record appears fully to be Before the court and controverted questions have actually been argued. Fed. Rules Civ. Proc. rule 75(d), 28 USCA - Indemnity Ins. Co. of North America v. Pioneer Val. Sav. Bank.

Court of Appeals would consider questions raised by appealing defendant in statements of points on appeal, even though such points did not challenge any specific finding of fact, conclusion of law, or ruling on admissibility of evidence, where questions

tendered appeared to have been addressed to trial court, record on which they were presented in Court of Appeals seemed complete, and they had brief and argued before Court of Appeals.—Id.

343 F 2d 565. C.A. N. Y. 1965

Court's Key 406.6 (11)

Where court's failure to make required findings does not have effect of prejudicing party's position, error may be merely harmless. Fed. Rules Civ. Proc. rule 52(a), 28 USCA; 28 USCA § 2111.

Error in district court's failure to comply with rule requiring court to find facts specially and state separately its conclusions of law was harmless, where it was possible to determine basis on which court below acted and record was clear enough for complaining party to recognize such grounds. FRCP, Rule 52(a), 28 USCA --Id.

106 F 2d 466 (1939)

5. Trespass Key 56.

The test of right to punitive damages for unlawful seizure of property over owner's protest is whether party taking it was guilty of conduct tending to create breach of peace or otherwise showing wilful, reckless or wanton disregard of Owner's rights.

THE RECORD SHOWS :

A. The APPELLEES and CONSOLIDATED CASES have been S I L E N T on ALL ISSUES.

B. The APPELLEES and CONSOLIDATED CASES have FAILED to have a PRINCIPAL DEFENDANT make appearance in ANY COURT, except in Minneapolis Municipal Court, where ATTORNEY ISRAEL MIRVISS appeared as President of N. W. Holding Co., a Minn. Corp.

C. The APPELLEES and CONSOLIDATED CASES have FAILED to make RESPONSIVE PLEADINGS in :

The Minnesota Supreme Court, AND,
The U. S. District Court, AND,
The Court of Appeals.

D. The APPELLEES, and their AGENTS, and CONSOLIDATED CASES, have FAILED to make ANSWERS to ADMISSIONS OF TRUTH.

E. The ATTORNEYS for N. W. Holding Co., a Minn. Corporation, have NOT obtained leave from ANY Court, to withdraw as Counsel for the APPELLEES.

C O N C L U S I O N :

The APPELLANTS are entitled to the RIGHT OF POSSESSION of the HOMESTEAD PREMISES, and the RETURN of the EXEMPT PERSONAL POSSESSIONS and for AFFIRMATIVE EQUITABLE RELIEF.

Respectfully submitted,

/s/ PAUL DAN ROSSO
PAUL DAN ROSSO - APPELLANT
7 Ortman Street Southeast
Minneapolis, Minnesota, 55414

Telephone: 336-3559

19 NOVEMBER 1966

Mr. Robert C. Tucker, Clerk
United States Court of Appeals
For the Eighth Circuit
St. Louis, Missouri 63101

Dear Mr. Tucker:

Re: Gordon Evanson et al vs.
Northwest Holding Co., a Minn. corp.

No. 18319 Civil - Sept. 1965 Term

Enclosed please find three (3) typewritten copies of APPELLANTS' MOTION IN ARREST OF JUDGMENT A N D THE JUDGMENT IS VOID A N D MOTION TO REVIEW THE DISTRICT COURT RECORD FOR PURPOSES OF CORRECTION BY REHEARING.

Service by Certified Mail No. 539554, was made upon Mr. Arnold I. Feinberg, Attorney for N. W. Holding Co., a Minn. corp.

Attached, please find Proof of Service.

Respectfully submitted,

/s/ PAUL DAN ROSSO
PAUL DAN ROSSO
7 Ortman Street Southeast
Minneapolis, Minn., 55414

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

September Term 1965

NO. 18319 - Civil

GORDON EVANSON, MELBA P. EVANSON,
PAUL DAN ROSSO AND PAULINA ROSSO,

Appellants,

vs.

NORTHWEST HOLDING COMPANY, A MINNESOTA
CORPORATION,

Appellee.

APPEAL FROM UNITED STATES DISTRICT COURT FOR THE
FOURTH DISTRICT OF MINNESOTA.

(MOTION IN ARREST OF JUDGMENT)
( )
(A N D)
( )
(THE JUDGMENT IS VOID)
( )
(A N D)
( )
(MOTION TO REVIEW THE DISTRICT)
(COURT RECORD FOR PURPOSES)
(OF CORRECTION)
(BY REHEARING.)

PAUL DAN ROSSO
7 ORTMAN STREET SOUTHEAST
MINNEAPOLIS, MINNESOTA, 55414
19 NOVEMBER 1966

UNITED STATES COURT OF APPEALS
EIGHTH CIRCUIT
ST. LOUIS, MISSOURI

CIV. NO. 18319

Gordon Evanson, Melba P. Evanson,
Paul Dan Rosso and Paulina Rosso,
Appellants,

vs.

Northwest Holding Company, a
Minnesota Corporation,
Appellee.

(MOTION IN ARREST OF JUDGMENT)
(A N D)
(THE JUDGMENT IS VOID)
(A N D)
(MOTION TO REVIEW THE DISTRICT)
(COURT RECORD FOR PURPOSES)
(OF CORRECTION)
(BY REHEARING.)

The following pleadings are made in accordance to the COMMON LAW, APPLICABLE FEDERAL and STATE CONSTITUTIONAL and STATUTORY RIGHTS, the COURT RULES, and ADJUDICATED CASES.

Appellants' MOTION IN ARREST OF JUDGMENT, is made during the term the decision is made, and SUSPENDS the VOID JUDGMENT, FOR THE PURPOSE of looking into the case. SEE: 9 Cowen's 778 (NY 1829).

NORTHWEST ORDINANCE 1787. ARTICLE II.

The inhabitants of the said territory shall always be entitled to the benefits of the writs of habeas corpus, and of the trial by jury; of a proportionate representation of the people in the Legislature, and of judicial proceedings according to the course of the common law...

I. MOTION IN ARREST OF JUDGMENT.

Appellants' MOTION IN ARREST OF JUDGMENT, is based upon a defect ON THE FACE of the dated 15 NOVEMBER 1966 Per Curiam Opinion.

The Per Curiam Opinion, quotes in part, from the Supreme Ct. Record : "They have stubbornly refused to acknowledge any fault in their own conduct despite two manifestly proper judgments against appellant Paul Rosso arising out of an assault and a breach of contract."

"From the record it appears entirely likely that these premises were indeed the appellants' homestead and as such should have been exempt from execution had they acted diligently to assert their rights."

"Nevertheless, by levying execution and securing a decree of registration, William Holmes has obtained real estate worth approximately $35,000 to satisfy claims amounting to less than one-fourth of that amount. Holmes' acquisition has been euphemistically described as a 'windfall.'"

"It is difficult to draw the exact line between what is the legitimate asserting of a client's rights and what amounts to an unfair overreaching of his adversary. Wherever that line may be, the gross injustice which has resulted from exploiting the improvidence of these appellants has brought little credit to the legal profession."

The Per curiam Opinion then states:

"Subsequent to the adverse determinations by the Supreme Court of Minnesota this action was commenced by the losing parties in the United States District Court for the District of Minnesota,..."

The Per Curiam Opinion, quotes in part, from the District Court Order :

"Obviously, this Court has no jurisdiction to entertain petitioners' petition to review this decision of the Supreme Court of the State of Minnesota or any of the subsequent orders therein", Judge Nordbye granted respondent's motion to dismiss, such order being dated January 15, 1964."

The Per Curiam Opinion concluded with :

"Thereafter appeal was taken to this court. The action of the District Court in dismissing the case for want of jurisdiction is so obviously correct that without further comment such action is affirmed."

The "gross injustice" to APPELLANTS here, began in 1961, when the Minneapolis Municipal Court, under "color of law", without right, alleged JURISDICTION in Unlawful Detainer Actions, WHERE THE COMPLAINT, WITHOUT FACTS ALLEGED AS REQUIRED BY STATUTE, D I D N O T STATE A CAUSE OF ACTION AS REQUIRED

BY STATUTE; NO PROOF WAS ADDUCED AT THE HEARING TO SHOW THE HOMESTEAD OWNERS' RIGHT OF POSSESSION HAD TERMINATED; NO FINDINGS WERE MADE BY THE COURT AS REQUIRED BY THE COURT RULES; NOR, WAS A WRIT OF RESTITUTION MADE BY THE COURT, AS REQUIRED BY STATUTE.

In a timely Appeal, the Minnesota State Supreme Court FAILED to protect the peaceable possession of the occupants of the HOMESTEAD PROPERTY from gross injustice.

The Federal District Court, in the removed action, stated,

> "Obviously, this Court has no jurisdiction to entertain petitioners' petition to review this decision of the Supreme Court of the State of Minnesota or any of the subsequent orders therein."

The Homestead Owners, at the commencement of the Unlawful Detainer Actions, were in open, actual, quiet, exclusive, notorious, peaceable possession of the premises taken by force, organized violence and terror, under the "color of law".

SEE: 119 U.S. 608 Iron Mountain R.R. vs. Johnson.
28 Minn. 462 at 463 Hennessey v. Pederson.

The DEFECTS ON THE FACE OF THE DATED 15 NOVEMBER 1966 PER CURIAM OPINION :

Homestead Rights are ABSOLUTE, and are NOT dependant upon any "acted diligently to assert their rights."

A Homestead Owner loses NO RIGHTS by failure to move to vacate an unauthorized, "....levying execution and securing a decree of registration,...."

A Homestead Owner may assert his homestead rights at A N Y T I M E I N A N Y C O U R T.

SEE: TRANSCRIPT OF U.D. HEARING in Mun. Court before JUDGE BRUCE STONE, where EACH OF THE FOUR HOMESTEAD OCCUPANTS, APPELLANTS HERE, ASSERTED THAT THE PREMISES WERE THEIR HOMESTEAD.

145 MINN. 104, at Page 106, which states in part : REAL ESTATE WHICH CANNOT BE SEIZED UPON EXECUTION CANNOT BE ATTACHED SO AS TO GIVE A LIEN THEREON. Fletcher v. Tuttle, 97 Me. 491, 54 Atl. 1110. NO CREDITOR CAN REDEEM FROM AN EXECUTION SALE, UNLESS HE HAS A LIEN ON THE PROPERTY SOUGHT TO

BE REDEEMED. THE ONLY LIEN ASSERTED BY PLAINTIFF WAS BY VIRTUE OF THE LEVY MADE UNDER HER ATTACHMENT. IF THE LAND WAS THEN THE HOMESTEAD OF THE DEFENDANT IN THE ACTION, IT WAS EXEMPT FROM SEIZURE AND NO LIEN WAS ACQUIRED BY THE LEVY UNDER THE WRIT. THIS IS SETTLED LAW. IT WAS NOT NECESSARY TO PROTEST THE LEVY. THE DEFENDANT COULD IGNORE IT AND IGNORE A SALE UPON AN EXECUTION ON ANY JUDGMENT THAT COULD BE ENTERED ON THE FINDINGS THAT WERE MADE IN THE CASE, AND AFTERWARDS ASSERT HIS HOMESTEAD RIGHT AS HE HAS DONE IN THIS ANSWER. "THE STATUTE GIVES THE EXEMPTION ABSOLUTELY, AND WITHOUT MAKING THE RIGHT TO IT DEPENDENT UPON ANY AFFIRMATIVE ACTION UPON THE PART OF THE PERSON CLAIMING IT TOWARDS AN OFFICER LEVYING OR ABOUT TO LEVY UPON IT."

Ferguson v. Kunler, 25 Minn. 183.

216 F 2d 743 (CA 3)

EXAMINATION BY FEDERAL DISTRICT COURT OF "OPINION" OF STATE SUPREME COURT AFFIRMING CONVICTION FOR MURDER DID NOT CONSTITUTE AN EXAMINATION OF THE "RECORD".

328 F 2d 296 (1964 Ark)

Judgment Key 828 (3.20) Validity of judgment

FEDERAL DISTRICT COURT WAS NEITHER REQUIRED NOR ENTITLED TO GIVE FULL FAITH AND CREDIT TO STATE COURT DECREE IF IT WAS CONSTITUTIONALLY VOID.

The APPELLANTS here, have a Federal Statutory right to remove from the Minnesota Supreme Court to the Federal District Court, after State Courts would not provide a remedy, when the facts show unlawful violations of Appellants' Rights.

76 C.J.S. P. 950

....WHENEVER A FEDERAL LAW GRANTS A RIGHT OF PROPERTY OR OF ACTION AND A SUIT IS BROUGHT TO ENFORCE THAT RIGHT, SUCH A SUIT ARISES UNDER THE LAW CREATING THE RIGHT WITHIN THE MEANING OF THE REMOVAL STATUTE. 251 F 332; 204 F. 998.

76 C.J.S. Sec. 94. Page 983

IN ORDER TO AUTHORIZE A REMOVAL UNDER THIS STATUTE, HOWEVER, A VIOLATION OF THE EQUAL PROTECTION CLAUSE OF THE 14TH AMENDMENT MUST BE SHOWN; SOME EQUAL CIVIL RIGHT MUST BE DENIED,....

83 S.CT. 1433 (1963)

2. Civil Rights Key 2

PURPOSE OF CIVIL RIGHTS ACT WERE TO OVERRIDE CERTAIN KINDS OF STATE LAWS, TO PROVIDE A REMEDY WHERE STATE LAW WAS INADEQUATE, TO PROVIDE A FEDERAL REMEDY WHERE STATE REMEDY, THOUGH ADEQUATE IN THEORY, WAS NOT AVAILABLE IN PRACTICE, AND TO PROVIDE A REMEDY IN FEDERAL COURTS SUPPLEMENTARY TO ANY REMEDY ANY STATE MIGHT HAVE. 42 USCA Sec. 1983.

224 F Supp 27 (Dec. 11, 1963) D.C. MINN., DEVITT,J.

"IT IS BETTER RULE FOR COURT TO ASSUME JURISDICTION OF ACTIONS UNDER CIVIL RIGHTS ACT AND THEN TO CONSIDER CLAIMED DEFICIENCIES ON GROUND THAT COMPLAINT FAILED TO STATE CLAIM UPON WHICH RELIEF CAN BE GRANTED. 28 USC 1343; 42 USC 1983, 1985."

II. THE JUDGMENT IS VOID.

F.R.C.P., RULE 60(b)(4) The judgment is void.

The dated 15 NOVEMBER 1966 Per Curiam Opinion, did not contain headnotes, cite a statute or court rule, or cite a controlling case in support of affirming the dismissal for want of jurisdiction.

The dated 15 November 1966 Per Curiam Opinion is "VOID UPON ITS FACE", because of the Court's failure to apply the controlling Constitutional and Statutory provisions, and conform to the decisions of controlling Adjudicated cases.

BLACK'S LAW DIC. 4TH ED., P. 1745

VOID JUDGMENT

One which has no legal force or effect, invalidity of which may be asserted by any person whose rights are affected at any time and at any place directly or collaterally.

One which, from its inception is and forever continues to be absolutely null, without legal efficacy, ineffectual to bind parties or support a right, of no legal force and effect whatever, and incapable of confirmation, ratification, or enforcement in any manner or to any degree.

VOID

Null; ineffectual; nugatory; having no legal force or binding effect; unable, in law, to support the purpose for which it was intended.

III. MOTION TO REVIEW THE DISTRICT COURT RECORD FOR PURPOSES OF CORRECTION BY REHEARING.

The Court of Appeals, Eighth Circuit, must review the Federal District Court Record and learn the jurisdictional facts BEFORE dismissal is affirmed, in order to grant real, complete, and lasting relief upon the MERITS.

The Court of Appeals must concede that if the case was removable BEFORE final judgment, to the Federal District Court, the case would be removable

AFTER final judgment, to the Federal District Court. 100 U.S. 295, 25 L Ed 661.

The Court of Appeals must concede, that if the case was appealable to the U. S. Supreme Court, for direct review, after exhausting state procedure and after a final decision that did not adjudicate the federal claims; any party could choose to litigate the federal claims in the federal district court for an initial determination and decision on the merits. 11 L.Ed 2d 440.

IV. CASES ON JURISDICTION.

100 US 295, 25 Law Ed 661

STATUTORY POWER TO REMOVE AN ACTION FROM A STATE COURT INTO THE CIRCUIT, SAYS JUDGE STORY, IF IT EXISTS BEFORE JUDGMENT BECAUSE IT IS INCLUDED IN THE APPELLATE POWER, MUST EXIST AFTER JUDGMENT FOR THE SAME REASON, AS HE HELD THAT THE SAME OBJECTION EXISTS AS TO THE REMOVAL BEFORE JUDGMENT AS AFTER, AND THAT BOTH MUST STAND OR FALL TOGETHER.

11 L. Ed 2d 440

1. WHEN A FEDERAL COURT IS PROPERLY APPEALED TO IN A CASE OVER WHICH IT HAS BY LAW JURISDICTION, IT IS ITS DUTY TO TAKE SUCH JURISDICTION.

2. THE RIGHT OF A PARTY PLAINTIFF TO CHOOSE A FEDERAL COURT WHERE THERE IS A CHOICE CANNOT BE PROPERLY DENIED.

6. IN CASES WHERE, BUT FOR THE APPLICATION OF THE ABSTENTION DOCTRINE, THE PRIMARY FACT DETERMINATION WOULD HAVE BEEN MADE BY THE FEDERAL DISTRICT COURT, A LITIGANT MAY NOT BE UNWILLINGLY DEPRIVED OF THAT DETERMINATION; THE POSSIBILITY OF APPELLATE REVIEW BY THE SUPREME COURT OF A STATE COURT DETERMINATION MAY NOT BE SUBSTITUTED, AGAINST A PARTY'S WISHES, FOR HIS RIGHT TO LITIGATE HIS FEDERAL CLAIMS FULLY IN THE FEDERAL COURTS.

239 F. Supp. 361 (N.Y. 1964)

2. Removal of causes Key 25(1).

....AND SINCE CAUSE OF ACTION ASSERTED FEDERAL CLAIM WHICH WAS NOT PLAINLY UNSUBSTANTIAL, DISTRICT COURT HAD JURISDICTION, REGARDLESS OF WHETHER IT ULTIMATELY TURNED OUT THAT CLAIM WAS GOOD OR BAD. 28 USC 1331.

239 F. Supp. 106 (N.Y. 1964)

3. Courts Key 299(3).

THE MERE ASSERTION THAT CLAIM ARISES UNDER CONSTITUTION IS SUFFICIENT TO GIVE THE COURT JURISDICTION TO DETERMINE IT, UNLESS CLAIM IS PLAINLY UNSUBSTANTIAL. 28 USC 1331.

AT PAGE 108.

THE OTHER BASIS OF JURISDICTION ASSERTED IN THE COMPLAINT IS 28 USC 1331, THE "FEDERAL QUESTION" SECTION WHICH GIVES JURISDICTION OF ACTIONS WHEREIN THE MATTER IN CONTROVERSY EXCEEDS $10,000 "AND ARISES UNDER THE CONSTITUTION, LAWS OR TREATIES OF THE UNITED STATES".

....THE RULE IS THAT THE MERE ASSERTION OF SUCH A CLAIM IS SUFFICIENT TO GIVE THE COURT JURISDICTION TO DETERMINE IT, UNLESS THE CLAIM IS PLAINLY UNSUBSTANTIAL.

....I THEREFORE HOLD THAT THE ASSERTION OF THIS CLAIM UNDER 28 USC 1331 IS SUFFICIENT TO CONFER JURISDICTION UPON THIS COURT TO DECIDE IT, AND HENCE THAT THE ACTION SHOULD NOT BE DISMISSED FOR LACK OF JURISDICTION.

324 F 2d 450

WHERE PLAINTIFF ATTEMPTED IN COMPLAINT IN FEDERAL DISTRICT COURT TO STATE CLAIM UNDER FEDERAL CIVIL RIGHTS ACT, AND SPECIFICIALLY INVOKED STATUTES RELATING TO THAT COURT'S JURISDICTION OVER CERTAIN CIVIL RIGHTS ACTIONS, COURT HAD JURISDICTION WHETHER OR NOT CLAIM WAS STATED.

134 SE 2d 85

THE FIFTH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES, DECLARING THAT NO PERSON SHALL BE DEPRIVED O F PROPERTY WITHOUT DUE PROCESS OF LAW AND THAT PRIVATE PROPERTY SHALL NOT BE TAKEN FOR PUBLIC USE WITHOUT JUST COMPENSATION, AND THE FOURTEENTH AMENDMENT, DECLARING THAT NO STATE SHALL DEPRIVE ANY PERSON OF LIFE, LIBERTY, OR PROPERTY, WITHOUT DUE PROCESS OF LAW, OR DENY TO ANY PERSON WITHIN ITS JURISDICTION THE EQUAL PROTECTION OF THE LAWS, ARE NOT CONFINED TO THE LEGISLATURE, BUT ARE APPLICABLE TO COURTS AND TO THE EXECUTIVE BRANCH OF THE GOVERNMENT.

202 F Supp. 624 (1962)

11. Courts Key 30.

JURISDICTION CONTINUES UNTIL ALL ISSUES, BOTH OF FACT AND LAW, HAVE BEEN FINALLY DETERMINED.

301 F 2d 639 (CA 9)

THE ONLY ELEMENTS WHICH NEED TO BE PRESENT IN ORDER TO ESTABLISH A CLAIM FOR DAMAGES UNDER THE CIVIL RIGHTS ACT (42 Sec. 1981 et seq.) ARE THAT THE CONDUCT COMPLAINED OF WAS ENGAGED IN UNDER COLOR OF STATE LAW AND THAT SUCH CONDUCT SUBJECTED THE PLAINTIFF TO THE DEPRIVATION OF RIGHTS, PRIVILEGES, OR IMMUNITIES SECURED BY THE CONSTITUTION OF THE UNITED STATES; THE DEFENDANT'S CONDUCT WAS ENGAGED IN UNDER COLOR OF STATE LAW IF HE WAS CLOTHED WITH THE AUTHORITY OF THE STATE AND WAS PURPORTING TO ACT THEREUNDER.

WHETHER THERE IS "COLOR" OF STATE LAW IS A FEDERAL, NOT A STATE QUESTION.

377 US 426 (1964)

FEDERAL CIVIL PROCEDURE KEY 71

IT IS FOR FEDERAL COURTS TO ADJUST THEIR REMEDIES SO AS TO GRANT NECESSARY RELIEF WHERE FEDERALLY SECURED RIGHTS ARE INVADED, AND WHEN FEDERAL STATUTE PROVIDES FOR GENERAL RIGHT TO SUE FOR SUCH INVASION, FEDERAL COURTS MAY USE ANY AVAILABLE REMEDY TO MAKE GOOD WRONG DONE.

38 F. Supp. 313 (D.C. Ill)

COURTS KEY 13.

THE REAL TEST OF "JURISDICTION", WHICH IS THE RIGHT TO ADJUDICATE CONCERNING THE SUBJECT MATTER IN A GIVEN CAUSE, IS WHETHER COURT HAS POWER TO ENTER UPON THE INQUIRY, AND WHETHER PLAINTIFF MAY SUCCESSFULLY MAINTAIN ITS ACTION IS NOT PERTINENT.

327 US 678, 90 L Ed 939

THE RIGHT OF THE PETITIONERS TO SUE IS NOT DERIVED FROM LOCAL OR COMMON LAW, EXCLUSIVELY, AS SUGGESTED BY THE RESPONDENTS. BY VIRTUE OF THE EXPRESS GUARANTEES OF THE U. S. AMENDMENT 4, THE RIGHT TO BE FREE FROM UNREASONABLE SEARCHES AND SEIZURES, FORMERLY A GENERAL RIGHT ARISING OUT OF GENERAL OR COMMON LAW, BECAME A SPECIFIC FEDERAL CONSTITUTIONAL RIGHT EXPRESSLY PROTECTED BY THE FEDERAL CONSTITUTION.

WHERE A RIGHT IS GUARANTEED OR PROTECTED BY AN EXPRESS PROVISION OF THE FEDERAL CONSTITUTION, THE COURTS OF THE UNITED STATES ARE NOT POWERLESS TO ENFORCE SUCH RIGHT BECAUSE CONGRESS HAS NOT TAKEN THE TROUBLE EXPRESSLY TO INSTRUCT THE FEDERAL COURTS TO ACCORD SUCH PROTECTION. 300 US 82; 281 US 548.

76 C.J.S. 950

...WHENEVER A FEDERAL LAW GRANTS A RIGHT OF PROPERTY OR OF ACTION AND A SUIT IS BROUGHT TO ENFORCE THAT RIGHT, SUCH A SUIT ARISES UNDER THE LAW CREATING THE RIGHT WITHIN THE MEANING OF THE REMOVAL ACT. 251 F 332; 204 F 998.

THERE ARE TWO TESTS FOR DETERMINING THE PRESENCE OF A FEDERAL QUESTION :

(1) WHETHER PLAINTIFF'S CLAIM WILL BE DEFEATED BY ONE CONSTRUCTION OF A FEDERAL LAW AND SUSTAINED BY THE OPPOSITE. 6 L.Ed 204 (1824).

(2) WHETHER PLAINTIFF'S RIGHT TO SUE OF HIS CLAIM FOR RELIEF HAS BEEN CREATED BY THE FEDERAL LAW IN QUESTION. 204 F 998 (1913).

345 F. 2d 173 at 175 (1965)

WE KNOW THAT OFFTIMES JURISDICTIONAL ALLEGATIONS MAY BE PATCHED UP IN A COURT OF APPEALS. (28 USC 1653), BUT HERE AN INQUIRY NEEDS TO BE MADE FACTUALLY TO FIND THE TRUTH.

Respectfully submitted,

/s/ PAUL DAN POSSO
PAUL DAN POSSO
7 Ortman Street Southeast
Minneapolis, Minnesota, 55414
19 NOVEMBER 1966.

UNITED STATES COURT OF APPEALS
EIGHTH CIRCUIT
ST. LOUIS, MISSOURI

CIV. NO. 18276
14 JANUARY 1966

Gordon Evanson, Melba P. Evanson,
Paul Dan Rosso and Paulina Rosso,
Plaintiffs,

vs.

Northwest Holding Company,
a Minnesota corporation,
Defendant.

UNITED STATES
DISTRICT COURT
DISTRICT OF
MINNESOTA
FOURTH DIVISION

4-63 Civ. 457

PETITION
FOR
WRIT OF MANDAMUS

BY PLAINTIFFS EVANSON ET AL
AGAINST

FRANK A. MASSEY, CLERK OF COURT
AND
THE HON. CHIEF JUDGE EDWARD J. DEVITT

Gordon Evanson et al, are Plaintiffs to the Federal District Court of Minnesota.

Frank A. Massey, is the Clerk of Court, for the District of Minnesota.

The Honorable Chief Judge Edward J. Devitt, heard the Civil Calendar on hearing day, 10 JANUARY 1966.

The PETITION FOR WRIT OF MANDAMUS, is made in accordance to F.R.C.P., RULE 77(a); 28 USC 1343, 1651, and 2072; 42 USC 1983, 1985, 1987; The Northwest Ordinance of 1787, U.S. Amendment 7, as well as U.S. Constitution Article IV, VI, and Amendments 5 and 14.

I. DATED 20 DECEMBER 1965 ORDER.

On 20 December 1965, the Honorable Judge GUNNAR H. NORDBYE, entered an ORDER, which states in part,

> "...The Clerk of this Court, therefore, is directed and ordered not to accept for filing from plaintiffs, or from anyone in their behalf, further motions, pleadings, or any other documents of whatever description in the above proceeding."

(Copy of ORDER enclosed).

II. DATED 30 DECEMBER 1965 MOTION.

A timely MOTION, dated 30 December 1965, returnable 10 JANUARY 1966, was made and served, entitled:

MOTION IN ARREST OF JUDGMENT
A N D
THE JUDGMENT IS VOID
A N D
MOTION TO HEAR ALL FILED
MOTIONS NOT YET RULED ON.

(The Original Motion with proof of service, is enclosed.)

III. TIMELY FILED WITH CLERK OF COURT.

The Original Motion, with proof of service, was timely certified mailed by Plaintiffs, to Frank Massey, Clerk of Court, for filing.

IV. MOTION RETURNED BY CLERK.

The Original Motion, with proof of service, was returned by mail to the Plaintiffs, by the Clerk of Court, with a letter dated January 3, 1966. (Copy of letter is enclosed.)

On 4 January 1966, Paul Dan Rosso, Plaintiff, placed a telephone call to Mr. Frank Massey, Clerk of Court, requesting the motion be filed in accordance to a Common Law Right as found in 9 Cowen's 778 (NY 1829) applicable in Minnesota by the enactment of the Northwest Ordinance of 1787, the Seventh Amendment, and in accordance to his ministerial duties and the Clerk of Court's Oath of Office, but to no avail.

V. NO OBJECTIONS NOR APPEARANCE.

The Defendant, NORTHWEST HOLDING COMPANY, A MINNESOTA CORPORATION, made no written objections to Plaintiffs' Motion, return day 10 JANUARY 1966, NOR, was appearance made in Court on hearing day, 10 January 1966, by Defendant's Attorney, ARNOLD I. FEINBERG, or a Principal Defendant of the Corporation.

VI. HEARING DAY, 10 JANUARY 1966.

On Hearing Day, 10 January 1966, prior to 10:00 A.M., Chief Deputy Clerk of Court, Mr. WILLIAM H. ECKLEY, stated to Plaintiff Paul Dan Rosso, that he (Eckley) would not file the Motion, but would place the motion in Court before the Judge.

VII. FEDERAL DISTRICT COURT, 10 JANUARY 1966.

After the Hon. Chief Judge Edward J. Devitt admitted several attorneys to practice in Federal District Court, Judge Devitt asked if Mr. Rosso was present. Paul Rosso approached the bench.

Judge Devitt stated he concurred with Judge Nordbye's Order, not to file any more pleadings, and if relief was available, it would be in the State Court. Paul Rosso asked Judge Devitt whether he had read the motion, and Judge Devitt answered, "Yes, I have read your motion, and it is denied". Judge Devitt then handed Paul Rosso the Motion and written Oral Arguments, along with a letter addressed to Judge Devitt from Paul Rosso and Melba P. Evanson. (Letter dated 10 Jan. 1966, to J. Devitt and Oral Arguments, enclosed).

VIII. PROCEEDINGS INVOLVED.

The Plaintiffs claim, the proceedings on 10 January 1966, before the Honorable Chief Judge Edward J. Devitt, HAVE NOT BEEN ruled upon, to grant Plaintiffs the necessary relief which the facts show.

The Plaintiffs claim, the Court FAILED to perform a ministerial duty.

227 N.Y.S. 163, 168

Statement by trial justice after trial before court without jury does not constitute a "decision".

IX. CONTROLLING CASES ON JURISDICTION.

201 F. 2d 174

If judgment is void for violation of Due Process Clause of the Fifth Amendment (Const. amend. 5) by denying defendant participancy in his motion to vacate, he may move to set it aside without appealing therefrom.

261 F(2d) 202.

The authority to grant a new trial under subdiv. 59(a) of this rule or to relieve a party from a final judgment under Rule 60(b) of this chapter, rests with the federal district court, not the court of appeals.

85 S. Ct. 234 (1964)

Mandamus key 26, 28

The traditional use of writ of mandamus in aid of appellate jurisdiction both at common law and in the federal courts has been to confine an inferior court to a lawful exercise of its prescribed jurisdiction.

The writ of mandamus is appropriately issued when there is usurpation of judicial power or a clear abuse of discretion.

337 F 2d 888 (1964 CA Okla.)
Courts key 85(1).

Litigant has right to rely upon local rules, as parties and court are bound by them.

199 N.W. 2d 652 (Ill. App. 1964)
Judges Key 24

A trial judge is not bound by prior order of another judge, and he has right to review prior order if in his judgment it was erroneous and he has duty to do so if change of facts or circumstances make the prior order unjust.

225 F Supp 619 (1964 DC Pa)
19. Civil Rights Key 3.

To sustain action under CIVIL RIGHTS ACT, the State Court proceedings must have been a nullity or had purpose of depriving plaintiff of his rights. 42 USC 1983.

134 SW 2d 85

The Fifth Amendment to the Constitution of the United States, declaring that no person shall be deprived of property without due process of law and that private property shall not be taken for public use without just compensation, and the Fourteenth Amendment, declaring that no state shall deprive any person of life, liberty, or property, without due process of law, or deny to any person within its jurisdiction the equal protection of the laws, are not confined to the legislature, but are applicable to courts and to the executive branch of the government.

202 F Supp. 624 (1962)
11. Courts key 30.

Jurisdiction continues until all issues, both of fact and law, have been finally determined.

X. PETITION.

The Plaintiffs Petition the Court of Appeals for a WRIT OF MANDAMUS, to require the Clerk of Court, Mr. FRANK A. MASSEY, to perform the ministerial duties of the office and file Plaintiffs' pleadings, AND, to require the Chief Judge EDWARD J. DEVITT, to perform the ministerial duties of his office, and render a decision in the matter.

Respectfully submitted,

PAUL DAN ROSSO
MELBA P. EVANSON
7 Ortman Street Southeast
Minneapolis, Minnesota, 55414

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No. 18276 September Term, 1965

Gordon Evanson, et al,
Petitioners,

vs.

Frank A. Massey, Clerk of)
United States District)
Court for the District of)
Minnesota, and Honorable)
Edward J. Devitt, Chief Judge)
United States District)
Court for the District of Minnesota.)

On Petition for Writ of
Mandamus.

Petition for writ of mandamus has been considered by the Court in this cause, and it is now here ordered that the petition be, and it is hereby, denied.

February 16, 1966

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

4-63 Civ. 457

Gordon Evanson, Melba F. Evanson,
Paul Dan Rosso and Paulina Rosso,
Plaintiffs,

vs.

Northwest Holding Company,
a Minnesota corporation,
Defendant.

O R D E R

Petitioners seek by filing a petition in this Court to review the judgment of the Supreme Court of the State of Minnesota entered June 21, 1963 (122 N.W. 2d 596), and to review subsequent orders of that Court denying petitioners' motions for an enlargement of time for a rehearing of the June 21, 1963, decision. The respondent has filed a motion for dismissal upon the ground that this Court is without jurisdiction. Petitioners counter with a motion for summary judgment in their behalf. Obviously, this Court has no jurisdiction to entertain peititioners' petition to review this decision of the Supreme Court of the State of Minnesota or any of the subsequent orders therein.

It follows, therefore, that respondent's motion to dismiss the petition herein must be granted. It is so ordered.

Dated this 15th day of January, 1964.

BY THE COURT:

GUNNAR H. NORDBYE
Judge

V. TRANSCRIPT

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

Gordon Evanson, Melba P. Evanson, Paul Dan Rosso and Paulina Rosso,
Plaintiffs,

vs. 4-63 Civ. 457

Northwest Holding Company, a Minnesota corporation,
Defendant.

The above-entitled matter came on for hearing before the Honorable Gunnar H. Nordbye, one of the Judges of the above Court, at Minneapolis, Minnesota, on January 13, 1964.

APPEARANCES:

Plaintiffs appeared pro se.

Arnold I. Feinberg, Esq.,
Attorney for Defendant.

THE COURT: We will proceed with the matter of Evanson, Evanson, Rosso and Rosso, versus the Northwest Holding Company.

MR. FEINBERG: I am the moving party, Your Honor. Maybe I can explain the situation.

THE COURT: You are Mr. Feinberg?

MR. FEINBERG: Yes. I represent the Northwest Holding Company.

THE COURT: Who represents the plaintiffs?

MR. FEINBERG: They appear pro se.

MR. PAUL ROSSO: I am Paul Dan Rosso.

THE COURT: You may proceed.

MR. FEINBERG: Your Honor, the plaintiffs in this proceeding have commenced a Civil Action in this Court, which, as I read their pleadings, seeks a review of a decision by the Supreme Court of the State of Minnesota.

Now, I am appearing here in the nature of a special appearance, moving the dismissal of this proceeding. If they have relief, I don't think it's really against my client.

The background of this case was exhaustibly

set forth in the Supreme Court decision involving these litigants. The citation of the case is 122 North West 2d, 596.

Now that case is entitled Northwest Holding Company, Respondent vs. Gordon Evanson, et al, Appellants, and that involved an appeal by the Evansons and Rossos from a decision of the Minneapolis Municipal Court in an unlawful detainer case. That matter was argued in the Supreme Court of the State of Minnesota. It was decided adversely to the Appellants. It was then reheard, or there was a Petition for Rehearing, a Petition for an enlargement of time. Those were duly denied, and after that these parties have brought this Civil Action, seeking review of the decision of the State Court of the State of Minnesota, of the Supreme Court.

Now, I think the best characterization of this entire proceeding is made by Justice Otis of the Supreme Court of Minnesota, on page 602. He says:

"This has been unusual and unfortunate litigation. The appellants have brought on themselves great hardship, severe economic loss, and needless anguish for which they now appear to have no remedy. They have stubbornly refused to acknowledge any fault in

their own conduct despite two manifestly proper judgments against appellant Paul Rosso arising out "of an assault and a breach of contract. In both proceedings he was represented by counsel who apparently could do little more than mitigate the damages he invited by his own wrongdoing. Appellants have refused to face reality or heed persistent admonitions to retain counsel."

Now, that has been the crux of this matter from the beginning. My client, who is in the unfortunate position of being a bona fide purchaser for value of a piece of real estate previously owned by these people, lost by them under judicial sale from which they, through their own stubbornness or neglect, whatever it was, I don't know, I wasn't involved at the time, did not see fit to make a proper redemption. They, accordingly, lost a building of substantial value for judgment, approximately one-fourth of its value.

Morally I sympathize with them, but legally, as the Justice of the Supreme Court set forth, they appear to have no remedy, and if they did have a remedy, it's long since gone. They have completely ignored admonitions by at least five judges that I know of to please go out and get a lawyer, and

attend to the legal matter properly. They have never seen fit to do so, but instead, they keep starting new actions in different courts every time they lose in one court.

I have every confidence that this case will eventually wind up in the United States Supreme Court, but I only hope that the Northwest Holding Company can be exonerated from this, because we in turn have now sold the building.

All we did was buy a building from the proper owner of the building, make a mortgage on it, hold it for awhile and resell it. It was while we held it that we were in the unfortunate position of being the ones to bring the unlawful detainer action against these people, and it has brought upon us two years of litigation, and we will never buy a building under those circumstances again.

THE COURT: Well, what are the plaintiffs seeking in their complaint here?

MR. FEINBERG: Review of the Supreme Court's decision, as far as I can gather, and I am moving for a dismissal on the basis that it lacks Federal

jurisdiction. I don't see what the question is involved over which this Court would have jurisdiction.

THE COURT: You represent the plaintiffs?

MR. ROSSO: Yes. My name is Paul Dan Rosso. The unlawful detainer action consists of the right of possession of the premises involved —

THE COURT: Are you a lawyer?

MR. ROSSO: No, sir.

THE COURT: You are one of the plaintiffs, is that it?

MR. ROSSO: Yes, and my mother, Mrs. Dan Rosso, my brother-in-law, Gordon Evanson, and my sister Melba Evanson, are here.

THE COURT: I see.

MR. ROSSO: The unlawful detainer action brought by Arnold Feinberg in State court, they made no service upon my mother, Mrs. Dan Rosso, and upon myself, but still Judge Stone ruled we did not have the right of possession.

Mr. Feinberg brought no evidence in Municipal Court that he had the right of possession. Today

he has brought no evidence to this Court to support his motion for dismissal, but we will bring our evidence in opposition.

We have six envelopes filed with the Clerk of Court, and I would like to have the Court look in Envelope No. 6 and there is a notice to the public regarding the exclusive possession, the notorious possession and homestead property of Dan Rosso and family.

The records in the Register of Deeds Office, Hennepin County, Minnesota, reflect since 1919 the Appellant has title recorded in the same family continuously and uninterrupted in the premises described as Lot 4, Block 9, Wilson's Rearrangements of Blocks 2, 3, 4 and so forth of the East Side Addition to the City of Minneapolis, commonly known as 2324-2326 Central Avenue Northeast.

The above-described premises have been occupied and maintained continuously and uninterrupted by the same family as homestead since 1919, with taxes assessed to and paid by the same family since 1919.

Minnesota Statutes 566.02 and .03, they show that limitations, you cannot bring an unlawful detainer action — let's see, I have got that on here—

THE COURT: Mr. Rosso, have you ever consulted with a lawyer about your matter?

MR. ROSSO: Many lawyers, Judge Nordbye. Many lawyers. We have the right of possession.

THE COURT: Well —

MR. ROSSO: This has never terminated since 1919. There's been no evidence brought in this Court today that it was terminated. There was no evidence brought in Municipal Court. There was no response brought in the Supreme Court that we did not have the right of possession. But Judge Otis ruled defiantly against our Constitutional right.

This Court has jurisdiction, because under Title 28, Section 1446(b) we should have due process of law. We have brought papers in to support our position on all these points, and there has been no response made by the President of Northwest Holding Company.

We have served interrogatories on him.

He has not made no answer to those interrogatories. The 15 days are up, so I am asking Summary Judgment against the President, Israel Mirviss of Northwest Holding Company. I am asking for Summary Judgment —

THE COURT: What are you seeking to obtain?

MR. ROSSO: The right of possession of homestead property —

THE COURT: The Northwest Holding Company has apparently sold the property and is no longer interested.

MR. ROSSO: The New York Legislature passed a law that effective in September, 1963, when you seek the right of possession, immediate possession of property, you sue all parties involved that are tenants and those that claim to be owner in all points.

I could read that to you if you haven't read that.

THE COURT: Well, of course, the laws of New York haven't anything to do with the laws of Minnesota. We are not governed by the laws of New York.

MR. ROSSO: Well, I wish the Court to take judicial notice that we do have the right of possession in accordance to the laws in Minnesota.

THE COURT: Supposing you leave this with me and I will look it over, unless there is something in addition you want to tell me. I gather that everything you are able to tell me will be found here in the file, right?

MR. ROSSO: Yes, except that the Supreme Court papers. Would you want me to bring in a copy of those? The Supreme Court pleadings, would that be necessary?

THE COURT: Well, I have the decision of the Supreme Court of Minnesota here.

MR. ROSSO: Yes, I did file that.

THE COURT: Of course, this Court has no jurisdiction to overrule the Supreme Court of Minnesota.

MR. ROSSO: No, but we have the right, when we cannot obtain due process of law, in the State Court, to collaterally attack it in the Federal Court. The Federal Courts have that jurisdiction. I have cited that in some of my papers, Judge.

THE COURT: Well, you have cited that in your file here?

MR. ROSSO: Yes.

THE COURT: Well, supposing we leave it this way, I will look over your file —

MR. ROSSO: You will find we have evidence of the right of possession. This evidence has never terminated today. He has not brought no evidence that Northwest Holding Company at any time had the right of possession of homestead property. Mr. Feinberg could show at no time that he had the right to buy this property or whatever he claimed he did, or that anybody had the right to sell it. The fee owner is Melba P. Evanson of the Dan Rosso family, and it has not been transferred at any time No Court has ruled that the title has been transferred.

You read Title 28, it's 2001 Section, sales generally, there was no compliance at all with the U.S. Statutes on selling our property, if it was ever claimed to be sold.

We have our affirmative rights outlined in our

U. S. Constitution, outlined in our Minnesota State Constitution, in our U.S. Statutes, in our State Statutes, in our State Court Rules and Federal Court Rules. We are entitled to have our affirmative rights supported by this Department of Government.

THE COURT: What do you do, Mr. Rosso?

MR. ROSSO: I am a plumber by trade, Judge. I talked to you once before, so you maybe remember me from years ago.

THE COURT: No, I don't remember, but I was sort of curious to know.

MR. ROSSO: Would you care to have us file the record and brief from the Supreme Court? We have a copy.

THE COURT: No, I don't think that will be necessary. I have the Supreme Court's decision, and I understand I have all the underlying data that you want to call to my attention within the file here.

MELBA P. EVANSON: Perhaps you would like to see our record, brief and Answer that the Supreme Court based their decision on. That's why we would like

to file it with you at this time.

THE COURT: Well, you may do so if you like.

MELBA P. EVANSON: Thank you.

THE COURT: I take it, Mr. Rosso, you would like to have this returned to you after I am through with it?

MR. ROSSO: Whatever is convenient for you, Judge.

THE COURT: Well, we will consider the matter submitted.

MR. FEINBERG: Thank you, Your Honor.

MR. ROSSO: May I add, this Court may not dismiss this action because there's been no return made in the State Court on my mother and myself.

THE COURT: I will attempt to give due consideration to whatever the file may disclose.

MR. ROSSO: Thank you.

* * *

I do hereby certify that the foregoing is a true and correct transcript of the stenograph notes taken by me in the above-entitled matter.

/s/ WARD L. SUTFIN
WARD L. SUTFIN,
Official Court Reporter.

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

4-63 Civ. 457

Gerden Evanson, Melba P. Evanson,
Paul Dan Rosso and Paulina Rosso,
Plaintiffs,

vs.

Northwest Holding Company, a
Minnesota corporation,
Defendant.

O R D E R

This proceeding has been pending for almost two years in this Court, and notwithstanding that the Court has heretofore dismissed the action for lack of jurisdiction and ruled adversely to the plaintiffs on motions for rehearing and default judgment, and in some five or more motions seeking relief by way of so-called writs of coram nobis and/or bills of review, plaintiffs persist in filing frivolous motions. Clearly, the time for a final cessation of the filing herein of further documents by the plaintiffs is long past due.

The Clerk of this Court, therefore, is directed and ordered not to accept for filing from plaintiffs, or from anyone in their behalf, further motions, pleadings, or any other documents of whatever description in the above proceeding. All motions heretofore filed and as to which no orders have been made by this Court are denied with prejudice.

This order does not assume to prevent plaintiffs from proceeding by way of appeal to the Eighth Circuit Court of Appeals from any order of this Court if any right to appeal remains under the law.

Dated this 20th day of December, 1965.

BY THE COURT:

GUNNAR H. NORDBYE
Judge

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION
4-63 Civ. 457

30 DECEMBER 1965

Gordon Evanson, Melba P. Evanson,
Paul Dan Rosso and Paulina Rosso,
Plaintiffs,

vs.

NOTICE OF MOTION

Northwest Holding Company,
a Minnesota Corporation,
Defendant.

The following motion to be heard at the Federal Court House in the City of Minneapolis, at 10:00 A.M., on 10 JANUARY 1966.

(MOTION IN ARREST OF JUDGMENT
A N D
THE JUDGMENT IS VOID
A N D
MOTION TO HEAR ALL FILED
MOTIONS NOT YET RULED ON)

The following pleadings are made in accordance to the COMMON LAW, APPLICABLE FEDERAL and STATE CONSTITUTIONAL and STATUTORY RIGHTS, the COURT RULES, and ADJUDICATED CASES.

Minn. Constitution, Article 1, Section 8, REDRESS OF INJURIES OR WRONGS.

Every person is entitled to a certain remedy in the laws for all injuries or wrongs which he may receive in his person, property or character; he ought to obtain justice freely and without purchase; completely and without denial; promptly and without delay, conformable to the laws.

United States Constitution, ARTICLE IV.
Section 2.
The citizens of each state shall be entitled to all privileges and immunities of citizens of the several states.

Section 4. The United States shall guarantee to every state in the Union a republican form of government; and shall protect each of them against invasion, and on-application of the legislature, or of the executive against domestic violence.

The F.R.C.P., RULE 77(a) The district courts shall be deemed always open for the purpose of filing any pleading or other proper paper.

201 A. 2d 205 (Pa 1964)
Judgment Key 634

Avenues of legal procedure should always be kept open until litigation has come to a legal end.

164 So. 2d 517 (1964 Fla. App.)
Judgment Key 634

Where action is brought against defendant who does not answer, default judgment is conclusive on him only in character in which he is sued, and he has right to assume that judgment will be limited as against him to cause of action stated in plaintiff's pleading, and if different relief is sought, notice must be given.

Plaintiff's MOTION IN ARREST OF JUDGMENT is made during the term the decision is made, and SUSPENDS the VOID JUDGMENT until the next term, FOR THE PURPOSE of looking into the case. SEE: 9 Cowen's 778 (NY 1829).

The COURT has a DUTY to make INQUIRY factually to FIND THE TRUTH, as to the Court's JURISDICTION under the Removal and Other Statutes.

I. MOTION IN ARREST OF JUDGMENT.

Plaintiff's MOTION IN ARREST OF JUDGMENT, is based upon a defect ON THE FACE of the dated 20 DECEMBER 1965 ORDER.

The ORDER, written in three paragraphs, contains about eight statements, enumerated below, WITH Plaintiff's comments on each statement :

1. "This proceeding has been pending for almost two years in this Court,"

Plaintiff's COMMENTS : 84 S.Ct. 1226 "There has been entirely too much deliberation and not enough speed in enforcing the Constitutional Rights..."

2. "and notwithstanding that the Court has heretofore dismissed the action for lack of jurisdiction"

Plaintiff's COMMENTS: The defect complained of, lack of jurisdiction, doesn't include the REASON, by law or fact, with supporting footnotes, HOW, WHEN or WHY, the Court lacked jurisdiction.

BLACK'S LAW DIC., 4TH ED. P. 925
INJUSTICE
The withholding or denial of justice. In law, almost invariably applied to the act, fault, or omission of a court, as distinguished from that of an individual.

16 N.W. 214 (Iowa) Things are called "illegal" for a violation of common-law principles. And the term does not imply that the act spoken of is immoral or wicked; it implies only a breach of the law.

In Marbury v. Madison 1 Cranch 137, 177 Opinion by Chief Justice Marshall, "It is emphatically the province and duty of the judicial department to say what the law is".

3. "and ruled adversely to the plaintiffs on motions for rehearing and default judgment, and in some five or more motions seeking relief by way of so-called writs of coram nobis and/or bills of review,"

Plaintiff's COMMENTS: The defect complained of, and ruled adversely to the plaintiffs, DOES NOT include the reason by law or fact, with supporting footnotes, on what grounds, the Court ruled adversely to the Plaintiffs.

302 NY 290 (1951)

3. The coram nobis type motion has been held, under due process, the appropriate corrective judicial procedure to remedy an alleged wrong. One swearing to allegations of such wrong and not conclusively refuted by unquestionable documentary proof contra must have a trial in open court if he wants one. Due process insists on a real hearing, not a sham or pretense. A motion like defendant's is the modern counterpart of the old coram nobis writ and disputes of fact in such proceedings have always been tried like similar issues in any other cause.

6. There is no time limit on applications such as the present and even if laches could be a defense (which is not decided) such a defense would require a trial.

F.R.C.P., RULE 60(b) On motion and upon such terms as are just, the court may relieve a party or his legal representative from a final judgment, order, or proceeding for the following reasons:
(4) the judgment is void;"

4. "plaintiffs persist in filing frivolous motions."

Plaintiff's COMMENTS.: The defect complained of, Plaintiffs persist in filing frivolous motions, did NOT include the reason by law or fact, with supporting footnotes, HOW the Court found the motions frivolous.

SEE: 83 SC 1068 Sanders vs. United States.

5. "Clearly, the time for a final cessation of the filing herein of further documents by the plaintiffs is long past due."

Plaintiff's COMMENTS : The defect complained of, the time for a final cessation of the filing...is long past due, did not include the reason by law or fact, with supporting footnotes, HOW and WHY the Court found a final cessation of the filing is long past due.

S E E : F.R.C.P., RULE 77 (a).

6. "The Clerk of this Court, therefore, is directed and ordered not to accept for filing from plaintiffs, or from anyone in their behalf, further motions, pleadings, or any other documents of whatever description in the above proceeding."

Plaintiff's COMMENTS: The defect complained of, the clerk....not to accept for filing from plaintiffs, did not include the reason by law or fact, with supporting footnotes, HOW and WHY the Clerk of Court could BREACH his Oath of Office, and refuse to perform the ministerial duties of the Office of the Clerk of Court.

S E E : 28 U.S.C. 951 et seq.

7. "All motions heretofore filed and as to which no orders have been made by this Court are denied with prejudice."

Plaintiff's COMMENTS: The defects complained of, all motions heretofore filed....are denied with prejudice, did not include the reason by law or fact, with supporting footnotes, WHY, HOW and WHEN "DUE PROCESS" and "ABSOLUTE RIGHTS" have been withdrawn WITHOUT a decision upon the MERITS.

8. "This order does not assume to prevent plaintiffs from proceeding by way of appeal to the Eighth Circuit Court of Appeals from any order of this Court if any right to appeal remains under the law. Dated this 20th day of December 1965. BY THE COURT: GUNNAR H. NORDBYE Judge".

Plaintiff's COMMENTS: The defects complained of, if any right of appeal remains under the law, did not include the reason by law or fact, with supporting footnotes, a showing that A RIGHT OF APPEAL has even begun, WITHOUT a final order, a decision UPON THE MERITS.

S E E : 83 SC 1068 Sanders vs. United States.

II. THE JUDGMENT IS VOID.

SEE: F.R.C.P., RULE 60(b) The judgment is void.

BLACK'S LAW DIC. 4TH ED., P. 1745

VOID JUDGMENT

One which has no legal force or effect, invalidity of which may be asserted by any person whose rights are affected at any time and at any place directly or collaterally.

One which, from its inception is and forever continues to be absolutely null, without legal efficacy, ineffectual to bind parties or support a right, of no legal force and effect whatever, and incapable of confirmation, ratification, or enforcement in any manner or to any degree.

VOID

Null; ineffectual; nugatory; having no legal force or binding effect; unable, in law, to support the purpose for which it was intended.

III. MOTION TO HEAR.

Plaintiffs have brought a timely Motion to HEAR the applications on file with the Court, and to which no ruling has been made.

No facts have been averred, nor proof made at any time, the timely applications for Default Judgment, etc., whould not be rendered.

The law must take its course.

Minn. St. Ch. 599.04 COURTS TO TAKE JUDICIAL NOTICE.

Every court of this state shall take judicial notice of the common law and statutes of every state, territory, and other jurisdiction of the United States.

Minn. St. Ch. 599;06 DETERMINATION TO BE MADE BY COURT.

The determination of such laws shall be made by the court and not by the jury, and shall be reviewable.

201 A. 2d 205
Judgment Key 634

Avenues of legal procedure should always be kept open until litigation has come to a legal end.

Respectfully submitted,

PAUL DAN ROSSO
MELBA P. EVANSON
7 Ortman Street Southeast
Minneapolis, Minn., 55414.

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

Gordon Evanson, et al,
Plaintiffs,

vs. 4-63 Civil 457

Northwest Holding Company, etc.,
Defendant.

The above-entitled matter came on before the Honorable Edward J. Devitt, Chief Judge of the above Court at Minneapolis, Minnesota, on JANUARY 10, 1966.

APPEARANCES:

Paul Rosso for plaintiffs.

THE COURT: Mr. Rosso, you know Judge Nordbye has made an Order advising the Clerk not to accept any more filings from you. You see, he has eard your case over and over again, and he has tried to explain to you how you have no cause of action here; and so the Clerk isn't authorized to file this instrument now. So you just had your day in Court here; in fact, you have had many of them, and any motions you have made, they are all denied. Judge Nordbye has made an Order denying them, and I think the Clerk told you that several times and I have told you several times.

Maybe you have some recourse over in State court, but you don't have any here.

MR. ROSSO: I request you read the motion.

THE COURT: Yes, I read your motion and it's denied, and the Clerk is directed not to accept any more papers from you.

MR. ROSSO: All right. Thank you.

* * *

I do hereby certify etc. Earl G. Anderson
Official Court Reporter

S U B P O E N A

27 November 1961

SUBPOENA — WALTER F. MONDALE, Chief Law Enforcement Officer of Minnesota, the Attorney General of Minnesota.

The reason this Subpoena is issued is to aid the Court to simplify and speed the proceedings and for the Public Interest.

In these Unlawful Detainer cases, the N. W. Holding Company vs. Melba and Gordon Evanson, and Northwest Holding Company vs. Paul and Paulina Rosso, under the pale of Court Orders, has openly and fraudulently claimed ownership of Melba and Gordon Evanson's HOMESTEAD PROPERTY that the same family has had as their HOMESTEAD PROPERTY and in quiet possession since 1919.

The Northwest Holding Company is attempting by mail and other means to extort the rental of portions of this HOMESTEAD PROPERTY.

Because of these threat attempts by the N. W. Holding Company, the tenants of portions of HOMESTEAD PROPERTY may have paid the Holding Company the rental payments or are hesitant to pay the Homestead Property Owner.

For the above reasons, the present action, Melba P. Evanson, HOMESTEAD PROPERTY OWNER, vs. Mrs. Florence Mady, Tenant of Homestead Property, is now in Court on an Unlawful Detainer Action.

The Northwest Holding Company, on November 21, 1961, at 9 A.M., had approximately eight Minneapolis Policemen, with a sledgehammer, smashed and kicked open the HOMESTEAD PROPERTY door of Gordon and Melba P. Evanson. Upon invading the Homestead Property, Police Officer, Walter Erickson, had five men, from a moving company, pack and remove the personal property and belongings of Gordon and Melba Evanson and family, into a moving van. This same date, 21 November 1961, telephone call attempts for aid to Police Chief Walling, Sheriff Ed Ryan, the Mayor's Office, Judges Bergin, Stone and Arthur, proved fruitless.

On 24 November 1961, at 2 P.M., in Municipal Criminal Court, the Northwest Holding Company vs. Melba and Gordon Evanson, and the Northwest Holding Company vs. Paul and Paulina Rosso, in a Motion to Set Aside An Unlawful Detainer Action, as Unconstitution, Motion made by Defendants, was delayed a week, until December 1, 1961, because the N. W. Holding Co. Attorney was supposedly going to St. Paul, Minn. for a hearing.

In Melba P. Evanson vs. Florence Mady Unlawful Detainer Action, the Attorney General is asked to submit in writing to the Court, the Plaintiff, and the Defendants, the answers to the following questions:

1. Is Lot 4, Block 9, Wilson's Rearrangement of Blocks East Side Addition, known as 2324-2326 Central Avenue Northeast, Minneapolis 18, Minnesota, the HOMESTEAD PROPERTY of Gordon and Melba P. Evanson?

2. Is the above described property filed on the 30 July 1959 at 3:20 P.M., in the Register of Deeds' Office, Warranty Deed Book 2220 Page 494, between Dan Rosso and Paulina Rosso, husband and wife, parties of the first part, and Melba P. Evanson, party of the second part?

3. Was the above described property purchased by Dan Rosso and Paulina Rosso in 1919?

4. Has the above described property been HOMESTEAD PROPERTY continuously in the same family since 1919, and taxed since 1934, under the HOMESTEAD ACT, and in quiet possession the entire time?

5. Would Minnesota Statutes Chapter 510, HOMESTEAD EXEMPTIONS apply to the above described property, and would this property be exempt from seizure and sale?

6. Could the owner of HOMESTEAD PROPERTY, while occupying portions of it, rent other portions thereof, and would the rentals derived from this source be exempt from process?

7. Could Title to the above described property be acquired by prescription?

8. Has a Torrens Title Certificate been issued to the Northwest Holding Company, listing the N. W. Holding Company as owner of the above described property?

9. How has the N. W. Holding Company acquired the Torrens Title Certificate? Please enlighten the undersigned on the procedure thereof, that is the Statutes and Court Rules used.

10. Has the N. W. Holding Company defrauded the Twin City Savings and Loan Association by obtaining bank funds by pretending to be the owners of the above described HOMESTEAD PROPERTY?

11. Does it appear that the N. W. Holding Company has upset Public Order by the following actions:

a. Obtaining bank funds and placing a mortgage against HOMESTEAD PROPERTY?

b. By issuing a registered mail letter dated August 1961, ordering my family's eviction within 7 days, from HOMESTEAD PROPERTY?

c. By attempting thru use of the mails, to extort rental payments of portions of HOMESTEAD PROPERTY?

d. By bringing an UNLAWFUL DETAINER ACTION against HOMESTEAD PROPERTY OWNER, and family?

e. By launching a "surprise attack" gestapo style, without notice, a total force of from 15 to 20 men, on 21 November 1961, at 9 a.m., with a sledgehammer, that smashed and then kicked open the front door of my HOMESTEAD PROPERTY, 2324 Central Avenue N.E., Minneapolis 18, Minnesota, under the supervision and guidance of the Minneapolis Police Department?

f. Melba P. Evanson pleaded with the Police Officer, who identified himself as "Matthews", as well as to all others, to telephone the Clerk of Municipal Court to verify the statement made by Melba P. Evanson, that a hearing would be held on

Friday, 24 November 1961, at 2 p.m., in regard to the N. W. Holding Co,, vs. Gordon and Melba P. Evanson. Mr. Matthews refused to comply with this most urgent request, but instead insisted, "we are moving you OUT". At this point, Mr. Matthews kicked open (according to his own admission), the door to the HOMESTEAD PROPERTY, and approximately five moving men, along with the protection of about eight Minneapolis Policemen, entered my HOMESTEAD Residence. Melba P Evanson again pleaded to Mr. Matthews, as well as all others, that a telephone call be placed to the Clerk of Municipal Court to prove that a hearing would actually be held at 2 p.m., Friday, 24 November 1961. This plea fell on deaf ears.

g. Nearly all of the belongings and possessions accumulated during 34 years of residence in the HOMESTEAD PROPERTY were removed rapidly and loaded into a moving van.

h. This "surprise attack" was launched on the same date that I, Melba P. Evanson, was scheduled to appear at 2 p.m., in Court on an Unlawful Detainer Action against a tenant in a portion of the HOMESTEAD PROPERTY, 2326 Central Avenue N. E., for non-payment of rent.

12. Does it appear that the N. W. Holding Company has trespassed on the Constitutional, Statutory and Other Rights of the named Defendants?

13. Does it appear that the N. W. Holding Company has lawfully engaged in business according to:

a. Federal Laws?
b. State Laws?
c. Municipal Laws? ....in re-

gard to letters, court appearances, obtaining bank funds and the "surprise attack"?

14. Does it appear that anyone else should be informed of the N. W. Holding Company actions?

15. Would it appear that anyone else is involved in any way together with N. W. Holding Company in these actions?

16. Does Municipal Court Rules of Civil Procedure apply to Minneapolis Municipal Criminal Court Room 437, and would this include Municipal Court Rule 24?

17. Are these any exceptions to the above answers?

18. Would the above answer also apply to an Unlawful detainer action?

19. Could the Judge allow the appearance of another party that has not made application, when the plaintiff or defendant objects?

20. To Protect the Public Interest and the Court, would the Attorney General of Minnesota, make any suggestions or recommendations?

21. Does the Court recognize and honor the Homestead Laws for Gordon and Melba P. Evanson's HOMESTEAD PROPERTY?

22. Does the Court recognize and honor a Warranty Deed that has been in the same family since 1919 for Gordon and Melba P. Evanson?

23. Does the Court recognize and honor paid tax statements on HOMESTEAD PROPERTY?

24. Does the Court recognize and honor Abstracts on HOMESTEAD PROPERTY?

Respectfully submitted,

/s/ Melba P. Evanson
Melba P. Evanson
HOMESTEAD PROPERTY OWNER
2324-2326 Central Avenue N.E.
Minneapolis 18, Minnesota

- -

On 28 November 1961, about one-half hour before the 2:00 P.M., Court Hearing, I, Paul Rosso, telephoned the Attorney General's Office to learn whether Attorney General Walter Mondale would be able to personally appear.

The secretary who answered the telephone, referred my call to Deputy Attorney, Sydney Berde. Mr. Berde stated the Subpeona was refused and that no one from his office would appear in Court for the Hearing on 28 November 1961.

Note: The Ramsey County Sheriff, St. Paul, Minnesota, returned this Subpeona and service fee, by mail, with a notation:

"Will not accept service as case was decided".

On the reverse side of the original

Subpeona was pen-marked: "271487"

."1.20"

and rubber-stamped:

"Received
NOV 27 3:41 PM '61
'Kermit Hedman
Ramsey County Sheriff

By (initialed) "CP" Deputy".

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26 SEPTEMBER 1961

No. 33943

A N S W E R T O

COMPLAINT IN UNLAWFUL DETAINER

REQUEST THE COURT TO LOOK INTO, AND TAKE ACTION REGARDING:

1. Judge PAUL CARROLL'S ORDER, 24 June 1958.

2. A fraudulent Sheriff Sale.

3. Ltr. dtd. Jan 11, 1961 from Charles Cox, to vacate 208 E. Hennepin Avenue Building.

4. Complaint in Unlawful Detainer # 32765, by William Holmes, to vacate 208 E. Hen. Bldg.

5. "Hearing" in Judge Luther Sletten's Court, 25 October 1960.

6. Land Title Summons #14838 (newspaper clipping) served by Sheriff, April 15, 1961, of HOLMES pretended Torrens Title.

7. Ltr. dtd 5 June 1961 from Cox to Leo Mady attempting to extort by mail the rental payments.

8. Ltr. dtd 18 August 1961 from I. Mirviss to Melba P. and Gordon L. Evanson, notifying to vacate the premises occupied as our Homestead, 2324 Central Avenue N.E., within seven (7) days.

9. The present fraudulent "Complaint in Unlawful Detainer", #33943, served 19 September 1961, served Melba P. Evanson and Gordon L. Evanson.

10. The Twin City Federal Savings & Loan Association, as "Taxpayer" of Melba P. Evanson's Homestead.

11. The Twin City Federal Savings & Loan Assoc. allegedly have a $27,900 mortgage on the 2324-26 Central Ave. N.E. Homestead property owned by Melba P. Evanson. This alleged mortgage, lists Northwest Holding Co., as owners, according to Twin City Federal Savings & Loan Assoc., employees, Messrs. Gerber and Raymaker.

12. Photostatic copy of Warranty Deed of Melba P. Evanson, Homestead Property, filed & recorded 30 July 1959 at 3:20 P.M.

13. Ltr dtd 22 Sept. 1961 from Ed. J. Drury to Paul Rosso, along with attached notation.

14. Homestead Statutes and other definitions.

A N D

Affidavit of prejudice regarding Judge Luther Sletten.

This request is made according to the MUNICIPAL COURT ACTS AND RULES Section I., Subdivision 6 (a), (I) and 2.

MINNESOTA STATE CONSTITUTION, Article I Sec. 2, 8, et. al that apply.

The UNITED STATES CONSTITUTION, I, IV, IX, XIII, XIV, et al, that apply.

U.S. Code Title 42, Section 1983 et seq.

Title 28, Section 2001 et seq.

42, Section 1874 (c)

18, Section 241, 242, 371, 286, 1001,1002,495

5, Section 311(a), 631

50, Section 78(c)

U. S. vs. Walters 1923, 263 U. S. 15.

Minnesota Statutes, Chapter 611.
613.41, 613.42
613.53, 613.70
613.75, 619.51
619.61, 619.62
620.08, 588.01

Also, see U. S. Government Manual 1959-60 Ed. Page 210 Civil Rights Division, Criminal Division, P. 211, Internal Security Division, P. 212, Lands Division.

The reason for this request TO LOOK INTO AND TAKE ACTION is that the lawful functions of the U. S. District Attorney, the Hennepin County District Court, the Sheriff's Office, the County Attorney's Office, the Clerk of District Court's Office, and the Minneapolis Municipal Court have been impaired, obstructed and defeated by this Plaintiff, together with his Court Agents and other parties, in this alleged action.

Also, the Plaintiff, together with his Court Agents and other parties, have trampled on our City Ordinances, State laws, the U. S. Code and our Constitutional rights, as well as the rights of Paul Rosso and our parents.

I.

Was this Complaint in Unlawful Detainer, made in good faith? Or, was this complaint made to convince the Twin City Federal Savings & Loan Association that the Northwest Holding Company are exercising their power and authority as alleged owners of the Homestead property that is occupied by Melba P. Evanson and her family? Would this complaint aid in the obtaining of an alleged $27,900 mortgage on 2324-26 Central Avenue N.E. property to defraud the Twin City Federal Savings & Loan Association?

II.

The Plaintiff, together with his Court Agents and other parties apparently are aware that Homestead property can not be

subject to seizure or sale unless:

1. The real estate taxes are not paid.
2. Labor performed on the homestead is not paid.
3. Material delivered to the Homestead is not paid.
4. Assessments are not paid.
5. The mortgage is not paid.

See Minnesota Statutes 505.05.

Do these parties assume that reasons 1, 2, 3, and 4 of above will never occur? Do these parties assume the rightful owner will not reimburse The Twin City Federal Savings & Loan Association for a mortgage fraudulently granted to the Northwest Holding Company, when the Northwest Holding Company defaults the mortgage?

Will the Twin City Federal Savings & Loan Assoc., as soon as the mortgage is defaulted, make a Complaint in Unlawful Detainer, to recover their loss?

Then, at some future date, will the Judge say to the rightful owner, "Did you pay the mortgage on your property?"

III.

In Holmes vs. Rosso case, the Honorable Judge Paul S. Carroll's Order, dated 24 June 1958, states: "ORDERED that said motion be and the same hereby is in all things denied". Stay 10 days."

Judge Carroll's Order has not been appealed from or set aside or vacated or any other actions taken.

How could this pretended action be continued over three (3) years later, without an appeal or a motion to set aside or vacate Judge Carroll's Order?

IV.

An alleged "Sheriff's Sale", of Homestead property located at 2324-26 Central Avenue N.E., Minneapolis for $2,500 to a Holmes, is to say the least an "Alice in Wonderland" fantasy. The yearly rental profit, after expenses, exceeds the amount of this alleged Sheriff's Sale.

PLEASE NOTE: HOMESTEAD PROPERTY IS EXEMPT FROM SEIZURE AND SALE.

See Minnesota Statute 510.01

See U.S. Code, Title 28, Section 2001, SALE OF REALITY GENERALLY.

See Minnesota Constitution, Article 1, Section 2, EQUAL PROTECTION OF THE LAWS.

The U. S. Government has not been served any papers regarding this alleged Sheriff's Sale. Information from the St. Paul Office of the U. S. Marshal.

V.

The pretended Torrens Title action has not been served on the U.S. Government. Information from St. Paul Office of U.S. Marshal, 8:45 A.M., 22 September 1961.

VI.

Attempting to list Paul Rosso as a judgment creditor is clearly erroneous, because:

In Holmes vs. Rosso, the Honorable Judge Paul S. Carroll, "ORDERED that said motion be and the same hereby is in all things denied. Stay 10 days", dated June 24, 1958, with his signature. This Order has never been appealed from, or set aside or vacated.

In Ledwein vs. Rosso, that judgment procured without Findings of Fact and Conclusions of Law cannot stand. See Court Rule 52, App. 8, Minn. Statutes. See an Order for Judgment without findings cannot stand. Chickering & Sons v. White 42 Minn. 457.

VII.

The "transfer of property to defraud creditors" claim, alleging "Paul Rosso transferred property to his parents" is a claim that would confuse only those lacking knowledge of our Constitutional and Homestead Rights, and of our Court Rules. See Equal Protection of the Laws, Minnesota Constitution, Article I, Section 2. See Homestead Rights, Minnesota Statutes Chapter 510.01, U. S. Constitution, 14th Amendment.

VIII.

The September 19, 1961 Complaint and Affidavit signed by Arnold I. Feinberg, stating the recording of a quit claim deed, and a mortgage in the Registrar of Titles, Hennepin County, Minnesota, is clearly in contempt of Court and falsely making of an Affidavit.

On September 22, 1961, at 8:15 A.M., neither a quit claim deed or a mortgage were recorded in the Registrar of Deeds Office.

PLEASE NOTE: Incidently, a pretended Torrens Title was not recorded either.

At the Twin City Federal Savings & Loan Association, a Mr. Raymaker stated to us (Paul Rosso, Melba and Gordon Evanson), that the Twin City Federal Savings & Loan Assoc., has a legal opinion from Machal, Crounse, Moore, Helmsy and Holmes, that the Northwest Holding Company, is the owner and have a $27,900 mortgage on the property located at 2324-26 Central Avenue N.E., Mpls. Mr. Raymaker further stated he (Raymaker) is satisfied that the Northwest Holding Company is the owner of the property. We informed Mr. Raymaker we felt that there was unsound banking practices involved. Mr. Raymaker urged us to speak to Mr. Israel Mirviss. We informed Mr. Raymaker we did not come to the Twin City Federal Savings & Loan Assoc., to talk with Mr. Mirviss. Mr. Raymaker informed us he was unable to give us any further information, then dialed a phone number, and requested Melba P. Evanson speak, to Mr. Gittleman. Mr. Raymaker stated Mr. Gittleman was an agent of the Northwest Holding Company. Mr. Gittleman stated that he had examined the title and the name Melba P. Evanson was not found anywhere. I, Melba P. Evanson, assured Mr. Gittleman I did have a Warranty Deed. He stated, "it was not filed". Melba Evanson then read the date of the Warranty Deed and time recorded.(30 July 1959, 3:20 P.M.)End of conversation.

Minnesota Statutes, Chapter 510
HOMESTEAD EXEMPTIONS

The property referred to in this matter is 2324-26 Central Avenue N.E., Minneapolis 18, Minnesota. This has been Homestead Property since 1919 and still is up to the present date, and the absolute owner is Melba P. Evanson.

Minn. Statutes 510.01 The house owned and occupied by a debtor as his dwelling place, together with the land....shall be exempt from seizure or sale under legal process...

Opinion.....exemption created by statute is not merely a privilege, but an absolute right, and the law conferring it must be liberally construed.

Minn. Statutes 510.02 Construction and application. Homestead exemption is not mere privilege, but absolute right. 185 Minn 347, 241 NW 388

Homestead exemption is not alone for husband and his protection, but for benefit of wife and children, and is not only privilege, but absolute right. 162 Minn. 230, 202 NW 494.

Minn. Statutes 510.04 Title may be in husband or wife; Equitable Title Exempt.

If the debtor be married the homestead title may be vested in either spouse, and the exemption shall extend to the debts of either or both. Any interest in the land, whether legal or

equitable, shall constitute ownership, within the meaning of this chapter, and the dwelling house so owned and occupied shall be exempt, though situated on the land of another.

Minn. Statutes 510.05 ....not apply to

mortgage, taxes, assessments, laborers or material mans lien.

Minnesota Statutes Chapter 273 Taxes.... Listing and Assessment

273.13 Classification of Property

Sub. 7, Class 3 C

All other real estate—which is used for the purpose of a HOMESTEAD shall constitute class 3c, and shall be valued and assessed at 25% of the true and full value thereof. If the full and true value is in excess of the sum of $4,000, the amount in excess of that sum shall be valued and assessed as provided by class four.

Sub 11 Assessor may require proof.

....by affidavit or otherwise.

The term "National Security" relates to the protection and preservation of the military, economic, and protective strength of the United States, including the security of the Government in domestic and foreign affairs against or from espionage, sabotage, and subversion and all other illegal acts designed to weaken or destroy the United States.

The decisive factor in issuance of a fraud order is not whether any one complains of fraud or was in fact defrauded, but whether the mails are being used to project a scheme which may result in obtaining money from the public by means of false and fraudulent statements. Farley v. Heininger 1939, 105 F 2d 79, 70 App. D.C. 200 Certiorari denied 60 S Ct. 110, 308 U.S. 587, 84 L. Ed 491.

Proof of fraudulent purposes or actual intent to deceive is essential in proving fraud, and merely proving that incorrect statement was made in advertisement is not sufficient to establish fraud under this section and section 732 of this title Atlanta Corp. v. Olesen D.C. Cal 1954, 124 F supp 482.

There can be no little losses of our Constitutional Rights and Other Rights.

This country must have integrity to continue leadership and financial standing.

This Municipal Court must have integrity to continue the National Integrity.

The Municipal Court Judge must have integrity to continue the Court's integrity.

This Answer should be studied with all the attention and seriousness it warrants.

The "Judicial Support" of this Court and its Staff is necessary to maintain

our "Rights" to be "in fact", as well "in law" Free and Equal.

Respectfully submitted,

GORDON L. EVANSON

MELBA P. EVANSON
2324 Central Avenue N. E.
Minneapolis 18, Minnesota

26 September 1961

AFFIDAVIT OF PREJUDICE

REGARDING JUDGE LUTHER SLETTEN

The reason this Affidavit is made is that in Judge Luther Sletten's Court in a similar complaint in Unlawful Detainer, on October 25, 1960, the Judge read the summons aloud and then asked Paul Rosso, the Defendant named, if this was true. Paul Rosso answered, "Not a word of it".

Court Agent Charles A. Cox did not have an answer ready, so the Judge then temporarily recessed the case on signal instructions from Court Agent McNulty, who was sitting in the jury chair.

The Judge said to Rosso, "go sit down, I will call you later, as we have another case to hear first.

Shortly after, McNulty and Cox appeared and placed on the Judge's bench, what appeared to be the District Court files of Holmes vs. Rosso, and Ledwein vs. Rosso. The Judge flipped the pages of these files and soon after, Paul Rosso took the stand and requested the Judge, according to the Municipal Court Rules to look into and take action in this case. The Judge said he had no such powers. The Judge asked Paul Rosso if he had redeemed the property from a Sheriff's sale. Paul Rosso answered, "there has been no sheriff's sale".

The Judge then stated the property has been sold. The Judge then asked Paul Rosso, "have you redeemed your

property?"

Paul Rosso answered he (Rosso) had no property to redeem. The Judge, to say the least was confused, and said, "I am going to find you guilty". Attorney Cox, on signals from McNulty, walked to the Judge's bench and laid some papers on the bench. The Judge flipped the papers, and on the last page, apparently made his signature.

(The same Judge, in a previous case, had asked a court agent if he had his order ready. The court agent walked to the bench and the Judge apparently made his signature.)

To the best of my recollection, the following occurred in the courtroom.

Paul Rosso: What does that mean?
Judge Sletten: You may go.
Rosso : What do you mean by guilty?
Judge : You are excused.
Rosso : Walked to the Judge, while the Judge was writing on Cox's paper and Rosso said to Cox: "Don't over extend your good luck".
Judge: Now see here.
Rosso: I suppose you are going to tell me that is contempt of Court.
Judge: Yes, committed right in the presence of the Judge, you are going upstairs, sit down; get the bailiff.
Rosso: I am sorry.
Judge: About what you said?
Rosso: Yes.
Judge: You may go.

See: Page 678, MINNESOTA RULES PRACTICE

These findings should represent the Judge's own determination and not the long argumentive statement of successful counsel.

The statement, "Do not over extend your good luck", was not made factiously, but in good faith, because some Courts are aware of the Court Rules and do have the integrity to observe the rules.

This Complaint in Unlawful Detainer apparently fizzled out, although a Walter Erickson, possessing a police badge, ordered Paul Rosso out of 208 E. Hennepin Avenue, Minneapolis, Minnesota, within 24 hours.

Now, through a deceptive, "Complaint in Unlawful Detainer", against Homestead property, located at 2324-26 Central Avenue N.E., Minneapolis, Minnesota, owned by Melba P. Evanson, these so-called Plaintiff's, their Court Agents and others, are attempting to defraud the Twin City Savings & Loan Association, of $27,900, by taking a mortgage on Homestead property located at 2324-26 Central Ave. N.E., with the cooperation of Mr. Raymaker, a bank employee.

No one has served a copy of the attached summons on Paul Rosso, or Paulina Rosso, as of this date; however, Mr. Walter Erickson, who served Melba and Gordon Evanson, asked Melba Evanson if she would like to give the summons to Paul Rosso and Paulina Rosso. Melba Evanson answered, "you better do your duty".

It is fundamental, unless jurisdiction is acquired, all subsequent proceedings are void. See Mpls. Municipal Charter Court Rules and Acts, Page 191.

Section 9, Subd. 6 In Civil Actions the Court may:

(c) Open the judgment if one has been entered.

(e) Amend findings of fact and conclusions of law, make new findings and conclusions, and direct entry of a new judgment.

If Judge Luther Sletten was unable to interpret the Municipal Court Rules, and if the Judge felt he could not trust the integrity and information given him by Paul Rosso, the Judge has available aid from the City Attorney and the Attorney General of Minnesota, as to his (Judge's) powers under the Municipal Court Rules. Why doesn't the Judge enlighten himself by increasing his knowledge to protect his integrity?

Fundamentally, the Judge must preserve his integrity. This is essential to maintain the integrity of the Court. Integrity is the basis of a Nation's financial standing, and the Courts must have integrity to maintain the National Integrity.

Recalling the story: Because of the loss of a nail, a shoe was lost; because of a loss of a shoe, a horse was lost; because of a loss of a horse, a rider was lost; because of the loss of a rider, a battle was lost; because of a loss of a battle, a <u>war was lost</u>.

There can be no little losses of our Constitutional Rights and Other Rights possessed by the American people, because, as our losses snowball, our Country and our Constitution may be lost, and may vanish from the earth.

Also, to be added to this Public Record Court Proceeding, is a copy of a letter dated 22 September 1961, from the U. S. District Attorney's office to Paul Rosso, signed by Mr. Edward J. Drury, Assistant U. S. Attorney. Does this letter comply with the oath of office, for the District Attorney position? See: U.S. Code, Title 28 Sec. 504(c).

THE MINNESOTA CAPITOL—Above the main entrance to the capitol are six statues representing the six virtues which support and assist the progress of the state. They are Wisdom, Courage, Bounty, Truth, Integrity and Prudence, the underlying virtues of good citizenship.

The interior of the capitol dome is painted deep blue to suggest the color of the sky. Its shape suggests the vault of the heavens. At the base of the dome is a series of twelve lunettes, each of which bears a sign of the zodiac in sequence with the course of the sun.

The circular area of the dome provides a spacious rotunda by extending down to the main floor. Above the cornice of the rotunda is a series of paintings which symbolize the process by which civilization was brought to Minnesota. The hero of this series of paintings is the American Genius, or Civilizer. In the first picture he appears as a youth

whose mission is to drive out Savagery, Cowardice, Sin and Stupidity from this land in order to make way for civilization. His wife, Timidity, pleads with him not to leave, but Hope and Wisdom urge him to fulfill his destiny.

The Minnesota Constitution, Article VII, Elective Franchise.

Section I, states in part, the following:

Citizens of the United States. First—Citizens of the United States who have been such for the period of three (3) months next preceding any election.

Mixed Indians, Second—Persons of mixed white and Indian blood who have adopted the customs and habits of civilization.

EXCERPTS FROM THE CONSTITUTION OF THE UNITED STATES.

ARTICLE IV, SECTION 2. The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

ARTICLE VI This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

AMENDMENT 4. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizure, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

AMENDMENT 9. The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

AMENDMENT 14. (Adopted July 28, 1868)

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; not shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Respectfully submitted,

/s/ Paul Rosso
PAUL ROSSO
2326 Central Avenue Northeast
Minneapolis 18, Minnesota
26 September 1961.

STATE OF MINNESOTA DISTRICT COURT
COUNTY OF HENNEPIN FOURTH JUDICIAL DISTRICT

William Holmes, Plaintiff,	:	
vs	:	No. 533990
Paul Rosso, Defendant.	:	ORDER

The above entitled cause, being on the Special Term Calendar of this Court, came on for hearing before the undersigned on the 24th day of June 1958, on a motion by the plaintiff for summary judgment; Plaintiff was represented by McNulty & Cox by Charles A. Cox, Esq., and defendant was represented by Edward P. Dietrich, Esq.

After hearing the arguments of counsel and being fully advised in the matter, it is

ORDERED that said motionbe and the same hereby is in all things denied.

Stay 10 days.

Dated June 24 1958.

BY THE COURT:

s/ Paul S. Carroll
Judge of the District Court

NOTE: This ORDER has not been appealed from, or set aside or vacated. Also, the attached Memorandum is not mentioned or made a part of the ORDER.

MEMORANDUM

As in all these cases there is a great deal of merit to the plaintiff's contention that he's entitled to a summary judgment, but since the Sauter vs Sauter case, 70 NW 2d 353 there has been a succession of reversals where judges have granted summary judgment. It is better for the parties to get their cases tried than to involve themselves in the extra expense of futile proceedings.

LAW OFFICES
MASLON, KAPLAN, EDELMAN, JOSEPH & BORMAN

BUILDERS EXCHANGE BUILDING
MINNEAPOLIS 2, MINNESOTA

JANUARY
ELEVENTH
1961

SAMUEL H. MASLON
HYMAN EDELMAN
SIDNEY J. KAPLAN
SHELDON KAPLAN
ROGER E. JOSEPH
MARVIN BORMAN
JOHN C. MCNULTY
CHARLES A. COX
RONALD J. WOLF
SAMUEL L. KAPLAN

Mr. Paul Rosso
2326 Central Avenue N. E.
Minneapolis, Minnesota

Dear Mr. Rosso:

We understand that despite the fact that Minneapolis police officers have served a writ of restitution upon you, requiring you to vacate the premises at 208 East Hennepin Avenue, Minneapolis, you have

not done so. As you know, neither you nor any members of your family have any right in the property.

Will you please contact me at your earliest convenience to arrange for us to take possession from you in behalf of our client, Mr. William Holmes, the owner of the property. Your contacting us will enable us to work out all details as to keys, arrangements with renters, water bills, electric bills and other similar details.

Unless we hear from you on or before January 25, it will be necessary to have you forceably evicted. We hope and trust that this will not be necessary.

Very truly yours,

/s/ Charles A. Cox
Charles A. Cox

CC:da

cc: Mr. Paul Rosso
208 East Hennepin Avenue
Minneapolis, Minnesota

* * THE ANSWER RAISED SUBSTANTIAL QUESTIONS * *

GORDON EVANSON AND MELBA P. EVANSON, BY TIMELY ANSWER, TO THE SPURIOUS UNLAWFUL DETAINER COMPLAINT No. 33943, RAISED SUBSTANTIAL STATE AND FEDERAL RIGHTS, WHICH WERE NOT DISPUTED, AND MUST BE DEEMED ADMITTED BY N. W. HOLDING COMPANY, A N D,

THE TIMELY ANSWER, ASSERTED THE ALLEGED LEDWEIN AND HOLMES "JUDGMENTS", WERE VOID BY STATUTE;

THE SHERIFF'S SALE OF THE HOMESTEAD PROPERTY FOR $2,500, IS TO SAY THE LEAST, A FANTASY;

THE TORRENS PROCEEDINGS WERE NOT IN ACCORDANCE TO LAW;

AN ATTEMPT TO EXTORT, BY MAIL, THE RENTAL PAYMENTS;

AN ATTEMPT TO OBTAIN, BY MAIL, THE POSSESSION OF THE HOMESTEAD PREMISES;

THE N. W. HOLDING COMPANY, AS "OWNER", OBTAINING AN ALLEGED $27,900 MORTGAGE, WAS TO DEFRAUD THE TWIN CITY FEDERAL SAVINGS & LOAN ASSOCIATION;

THE TIMELY ANSWER ASSERTED THAT THE COURT HAD JURISDICTION TO LOOK INTO AND TAKE ACTION, IN ACCORDANCE TO THE MUNICIPAL COURT ACTS AND RULES;

A N D,

THE TIMELY ANSWER, ASSERTED ABSOLUTE HOMESTEAD RIGHTS IN ACCORDANCE TO THE MINNESOTA CONSTITUTION, AND STATUTE, AND ADJUDICATED CASES.

* * * CONTROLLING CASES * * *

92 NW 2d 569 (1958 Iowa) Halverson v. Hageman.
(On PAGE WRIT OF CERTIORARI, U.S. SUPREME COURT.)

145 MINN. 104 (1920) Beigler v. Chamberlin.
(On PAGE WRIT OF CERTIORARI, U.S. SUPREME COURT.)

NOTE: 265 MINN. 59 (1963) State, By Mondale v. The Hanna Mining Co.,

WAS HEARD BY THE SAME JUDGES, ON THE SAME HEARING DAY, IN THE SAME COURT, AS :

265 MINN. 562 (1963) N.W. HOLDING CO. v. EVANSON, et al.

265 Minn. 59 State, by Mondale v. The Hanna Mining Company.

"....THE RULE APPLIED IS THAT WHERE A TENANT GOES INTO POSSESSION OF PROPERTY UNDER THE PROVISIONS OF A LEASING AGREEMENT, RECEIVES THE BENEFITS FOR WHICH HE BARGAINED, AND HAS NOT BEEN DISTURBED IN HIS USE AND OCCUPANCY OF THE PREMISES, HE IS BOUND BY HIS CONTRACT TO PAY THE RENT AND IS ESTOPPED TO DENY THE LANDLORD'S TITLE."

"WHERE A DEFENDANT WAS ESTOPPED AS A MATTER OF LAW FROM ASSERTING THE ONLY DEFENSE RAISED BY ITS ANSWER AND SUPPLEMENTARY PLEADINGS, THE TRIAL COURT WAS CORRECT IN GRANTING SUMMARY JUDGMENT FOR PLAINTIFF UNDER RULE 56.03, RULES OF CIVIL PROCEDURE."

129 ALA. 281 "THE CHANCERY COURT NEVER ENTERTAINS A BILL TO REMOVE CLOUDS IN THE SHAPE OF DEEDS WHICH ARE VOID." 54 Ala. 291.. "THE DEED WAS ABSOLUTELY VOID, NOT MERELY VOIDABLE, AND THEREFORE A NULLITY. BEING VOID, NO TITLE PASSED BY IT TO H.Z.W., AND OF COURSE, THE MORTGAGE EXECUTED BY HIM CONVEYED NONE. 127 Ala. 577.."

54 ALA. 291, 295 (1875) Rea v. Longstreet et al.

A SALE OF THE LAND OF THE TRUE OWNER, AS THE PROPERTY OF A MERE STRANGER, WITH WHOM HE IS NOT CONNECTED, FROM WHOM HE DOES NOT MEDIATELY OR IMMEDIATELY TRACE TITLE, C A N N O T C A S T A C L O U D ON HIS TITLE.

ARMSTRONG v. SANFORD, 7 MINN. 53 (Gil 34);

MONTGOMERY V. MC EWEN, 9 MINN. 107 (GIL 93).

PATTON ON TITLES SECOND EDITION, West Publishing Co.

SEC. 464 DEPENDENCE UPON VALIDITY OF JUDGMENT OR DECREE.

THE VALIDITY OF ALL OFFICIAL CONVEYANCES DEPENDS DIRECTLY OR INDIRECTLY UPON SOME JUDGMENT OR DECREE. IF THE LATTER IS LACKING, OR IS INVALID, THE CONVEYANCE, TOGETHER WITH ANY INTERMEDIATE WRIT OR SALE, IS VOID, AND NO TITLE PASSES TO THE PURCHASER. 13 N.W. 71, 97 U.S. 444, 101 N.W. 293.

* * * * * * * * * * * * * * *

SEE : U. S. DISTRICT COURT CASE NO. 4-63 Civ. 457,

MOTION DATED 7 APRIL 1964 CONTAINING :

DOCUMENTARY EVIDENCE, ENCLOSURES A, B, AND C.

* * * *

((THE CONTENTS OF)) ENCLOSURE A

Item #

1. Letter dated 23 January 1964, to Paul Dan Rosso from Lutheran Brotherhood.

2. Mortgage dated 4 October 1963, between FIDELITY SECURITIES, Mortgagor, and LUTHERAN BROTHERHOOD, Mortgagee.

ENCLOSURE B

Item #

1. Letter dated January 27, 1964, addressed to Paul Rosso from C. R. Moritz, of Title Insurance Company of Minnesota.

2. POLICY OF TITLE INSURANCE COMPANY, dated 16 October 1

3. Letter dated 12 February 1964, to Mr. C. R. Moritz from Paul Dan Rosso.

4. Letter dated 13 February 1964, addressed to Paul Dan Rosso from C. J. McConville of Title Insurance Company.

ENCLOSURE C

Item #

1. Request for a Title OPINION by Paul Dan Rosso.

2. Receipt to Paul Dan Rosso from Attorney Andrew G. Kohlan.

Enclosure C - continued
Item #

3. Letter dated 20 March 1964, to Paul D. Rosso from Attny. Andrew G. Kehlan.

4. Receipt for letter from Paul Rosso, signed by Lorraine Donlon, for Mayor Arthur Naftalin.

Receipt for letter from Paul Rosso, signed by ehs (Mr. Steles) for Sheriff Ed Ryan.

5. A District Court Form for follow-up service — not used.

Receipt for Certified Mail and Return Receipt Card, received by Paulina M. Rosso, from the Clerk of District Court for her answer to Land Title Summons No. 14838.

(NOTE: This answer is not in the Torrens Title Files.)

6. Receipt for Certified Mail and Return Receipt Card, received by Paul D. Rosso, from the Clk. of Dis. Court, for his answer to Land Title Summons No. 14838.

(NOTE: This answer is not in the Torrens Title Files.)

Return receipt card received by Melba P. Evanson and Gordon L. Evanson, from the Clk. of Dis. Court, for their answer to Land Title Summons No. 14838.

(NOTE: This answer is not in the Torrens Title Files.)

Certified Mail Receipts No. 541202, and No. 541201, to Sheriff Ed Ryan and Chief of Police E. I. Walling.

Enclosure C - continued
Item #

7. Execution returned unsatisfied 18 March 1959, by Dep. Sheriff C. V. Swanberg.

   The second Execution endorsed by Samuel Saliterman, on March 9, 1959; received on March 16, 1959, by Dep. Sheriff W. Rusinko; Filed Mar. 19, 1959, by Clerk of District Court.

8. Execution returned unsatisfied 17 June 1959, by Dep. Sheriff C. V. Swanberg.

   Letter dated 17 June 1959 to Walter Rusinko, Sheriff's Office, from Attorney Charles A. Cox.

9. ORDER, dated June 11, 1959, signed by Judge Levi Hall, District Court.

10. Controlling Cases cited.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED :

THE FOURTH AMENDMENT TO THE U. S. CONSTITUTION.

"THE RIGHT OF THE PEOPLE TO BE SECURE IN THEIR IN THEIR PERSONS, HOUSES, PAPERS, AND EFFECTS, AGAINST UNREASONABLE SEARCHES AND SEIZURES, SHALL NOT BE VIOLATED, AND NO WARRANTS SHALL ISSUE, BUT UPON PROBABLE CAUSE, SUPPORTED BY OATH OR AFFIRMATION, AND PARTICULARLY DESCRIBING THE PLACE TO BE SEARCHED, AND THE PERSONS OR THINGS TO BE SEIZED."

A N D,

MINN. CONST. ARTICLE I, SEC. 12. PROPERTY EXEMPTION.

A REASONABLE AMOUNT OF PROPERTY SHALL BE EXEMPT FROM SEIZURE OR SALE FOR THE PAYMENT OF ANY DEBT OR LIABILITY. THE AMOUNT OF SUCH EXEMPTION SHALL BE DETERMINED BY LAW. (PROVIDED, HOWEVER, THAT ALL PROPERTY SO EXEMPTED SHALL BE LIABLE TO SEIZURE AND SALE FOR ANY DEBTS INCURRED TO ANY PERSON FOR WORK DONE OR MATERIALS FURNISHED IN THE CONSTRUCTION, REPAIR OR IMPROVEMENT OF THE SAME, AND PROVIDED FURTHER, THAT SUCH LIABILITY TO SEIZURE AND SALE SHALL ALSO EXTEND TO ALL REAL PROPERTY FOR ANY DEBT INCURRED TO ANY LABORER OR SERVANT FOR LABOR OR SERVICE PERFORMED).

A N D,

MINN. STATUTES CHAP. 510.01. HOMESTEAD DEFINED;

EXEMPT: EXCEPTION.

"THE HOUSE OWNED AND OCCUPIED BY A DEBTOR AS HIS DWELLING PLACE, TOGETHER WITH THE LAND UPON WHICH IT IS SITUATED TO THE AMOUNT HEREINAFTER LIMITED AND DEFINED, SHALL CONSTITUTE THE HOMESTEAD OF SUCH DEBTOR AND HIS FAMILY, AND BE EXEMPT FROM SEIZURE OR SALE UNDER LEGAL PROCESS ON ACCOUNT OF ANY DEBT NOT LAWFULLY CHARGED THEREON IN WRITING, EXCEPT SUCH AS ARE INCURRED FOR WORK OR MATERIALS FURNISHED IN THE CONSTRUCTION, REPAIR, OR IMPROVEMENT OF SUCH HOMESTEAD, OR FOR SERVICES PERFORMED BY LABORERS OR SERVANTS.

M.S. CHAP. 510.05 LIMITATIONS.

SUCH HOMESTEAD EXEMPTION SHALL NOT EXTEND TO ANY MORTGAGE LAWFULLY OBTAINED THEREON, TO ANY VALID LIEN FOR TAXES OR ASSESSMENTS, OR TO ANY CHARGE ARISING UNDER THE LAWS RELATING TO LABORERS OR MATERIALMEN'S LIENS.

M.S. CHAP. 510.07 SALE OR REMOVAL PERMITTED; NOTICE.

THE OWNER MAY SELL AND CONVEY THE HOMESTEAD WITHOUT SUBJECTING IT, OR THE PROCEEDS OF SUCH SALE FOR THE PERIOD OF ONE YEAR AFTER SALE, TO ANY JUDGMENT OR DEBT FROM WHICH IT WAS EXEMPT IN HIS HANDS. HE MAY REMOVE THEREFROM WITHOUT AFFECTING SUCH EXEMPTION, IF HE DO NOT THEREBY ABANDON THE SAME AS HIS PLACE OF ABODE. IF HE SHALL CEASE TO OCCUPY SUCH HOMESTEAD FOR MORE THAN SIX CONSECUTIVE MONTHS HE SHALL BE DEEMED TO HAVE ABANDONED THE SAME UNLESS, WITHIN SUCH PERIOD, HE SHALL FILE WITH THE REGISTER OF DEEDS OF THE COUNTY IN WHICH IT IS SITUATED A NOTICE, EXECUTED, WITNESSED, AND ACKNOWLEDGED AS IN THE CASE OF A DEED, DESCRIBING THE PREMISES AND CLAIMING THE SAME AS HIS HOMESTEAD. IN NO CASE SHALL THE EXEMPTION CONTINUE MORE THAN FIVE YEARS AFTER SUCH FILING, UNLESS DURING SOME PART OF THE TERM THE PREMISES SHALL HAVE BEEN OCCUPIED AS THE ACTUAL DWELLING PLACE OF THE DEBTOR OR HIS FAMILY.

386.37 ABSTRACTS OF TITLE.

THE REGISTER OF DEEDS, UPON BEING PAID HIS LAWFUL FEES THEREFOR, SHALL MAKE OUT, UNDER HIS CERTIFICATE AND SEAL, AS THE SAME APPEARS OF RECORD OR ON FILE IN HIS OFFICE, AND DELIVER TO ANY PERSON REQUESTING THE SAME :

(1) A FULL AND PERFECT ABSTRACT OF TITLE TO ANY REAL ESTATE TOGETHER WITH ALL ENCUMBRANCES, LIENS AND INSTRUMENTS IN ANY MANNER AFFECTING SUCH TITLE;

(2) A CONTINUATION OF ANY ABSTRACT OF TITLE, TO ANY REAL ESTATE THAT HAS BEEN CERTIFIED TO BY AN OFFICIAL ABSTRACTER OF HIS COUNTY WITHIN TEN DAYS AFTER SUCH REQUEST;

(3) AN ABSTRACT OF TITLE TO ANY REAL ESTATE, TOGETHER WITH ALL ENCUMBRANCES, LIENS, AND INSTRUMENTS IN ANY MANNER AFFECTING SUCH TITLE, FROM A CERTAIN DATE TO A GIVEN DATE, WITHIN TEN DAYS AFTER SUCH REQUEST: OR

(4) AN ABSTRACT OF TITLE TO ANY REAL ESTATE COVERING ENCUMBRANCES AND LIENS, ONLY, AFFECTING SUCH TITLE BETWEEN ANY TWO GIVEN DATES, WITHIN TEN DAYS AFTER SUCH REQUEST.

MINN. STATUTES CHAPTER

386.39 INSTRUMENTS NOT PROPERLY EXECUTED.

EXCEPT WHERE OTHERWISE EXPRESSLY PROVIDED BY LAW, NO REGISTER OF DEEDS SHALL RECORD ANY CONVEYANCE, MORTGAGE, OR OTHER INSTRUMENT BY WHICH ANY INTEREST IN REAL ESTATE MAY BE IN ANY WAY AFFECTED, UNLESS THE SAME IS DULY SIGNED, EXECUTED AND ACKNOWLEDGED ACCORDING TO LAW; ANY SUCH OFFICER OFFENDING HEREIN SHALL BE GUILTY OF A MISDEMEANOR AND LIABLE IN DAMAGES TO THE PARTY INJURED IN A CIVIL ACTION.

MINN. ST. CH. 504 LANDLORDS AND TENANTS.

504.03 TENANT MAY NOT DENY TITLE; EXCEPTION.

WHEN ANY PERSON ENTERS INTO THE POSSESSION OF REAL PROPERTY UNDER A LAWFUL LEASE HE SHALL NOT WHILE SO IN POSSESSION DENY THE TITLE OF HIS LANDLORD IN AN ACTION BROUGHT BY SUCH LANDLORD, OR ANY PERSON CLAIMING UNDER HIM, TO RECOVER POSSESSION OF THE PROPERTY: BUT SUCH ESTOPPEL SHALL NOT APPLY TO ANY LESSEE WHO, AT AND PRIOR TO THE LEASE, IS IN POSSESSION OF THE PREMISES UNDER A CLAIM OF TITLE ADVERSE OR HOSTILE TO THAT OF THE LESSOR.

504.04 PERSON IN POSSESSION LIABLE FOR RENT; EVIDENCE.

EVERY PERSON IN POSSESSION OF LAND OUT OF WHICH ANY RENT IS DUE, WHETHER IT WAS ORIGINALLY DEMISED IN FEE, OR FOR ANY OTHER ESTATE OF FREEHOLD OR FOR ANY TERM OF YEARS, SHALL BE LIABLE FOR THE AMOUNT OR PROPORTION OF RENT DUE FROM THE LAND IN HIS POSSESSION, ALTHOUGH IT BE ONLY A PART OF THE LAND ORIGINALLY DEMISED. SUCH RENT MAY BE RECOVERED IN A CIVIL ACTION, AND THE DEED, DEMISE, OR OTHER INSTRUMENT SHOWING THE PROVISIONS OF THE LEASE MAY BE USED IN EVIDENCE BY EITHER PARTY TO PROVE THE AMOUNT DUE FROM THE DEFENDANT. NOTHING HEREIN CONTAINED SHALL DEPRIVE LANDLORDS OF ANY OTHER LEGAL REMEDY FOR THE RECOVERY OF RENT, WHETHER SECURED TO THEM BY THEIR LEASES OR PROVIDED BY LAW.

ly Bound

MINN. ST. CHAP. 508.02 REGISTERED LAND SUBJECT TO SAME INCIDENTS AS UNREGISTERED; ADVERSE POSSESSION EXCEPTED.

REGISTERED LAND SHALL BE SUBJECT TO THE SAME BURDENS AND INCIDENTS WHICH ATTACH BY LAW TO UNREGISTERED LAND. THIS CHAPTER SHALL NOT OPERATE TO RELIEVE REGISTERED LAND OR THE OWNERS THEREOF FROM ANY RIGHTS, DUTIES, OR OBLIGATIONS INCIDENT TO OR GROWING OUT OF THE MARRIAGE RELATION, OR FROM LIABILITY TO ATTACHMENT ON MESNE PROCESS, OR LEVY ON EXECUTION, OR FROM LIABILITY TO ANY LIEN OR CHARGE OF ANY DESCRIPTION, CREATED OR ESTABLISHED BY LAW UPON THE LAND OR THE BUILDINGS SITUATED THEREON, OR THE INTEREST OF THE OWNER IN SUCH LAND OR BUILDINGS. IT SHALL NOT OPERATE TO CHANGE THE LAWS OF DESCENT OR THE RIGHTS OF PARTITION BETWEEN COTENANTS, OR THE RIGHT TO TAKE THE LAND BY EMINENT DOMAIN. IT SHALL NOT OPERATE TO RELIEVE SUCH LAND FROM LIABILITY TO BE TAKEN OR RECOVERED BY ANY ASSIGNEE OR RECEIVER UNDER ANY PROVISION OF LAW RELATIVE THERETO, AND SHALL NOT OPERATE TO CHANGE OR AFFECT ANY OTHER RIGHTS, BURDENS, LIABILITIES, OR OBLIGATIONS CREATED BY LAW AND APPLICABLE TO UNREGISTERED LAND EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN. NO TITLE TO REGISTERED LAND IN DEROGATION OF THAT OF THE REGISTERED OWNER SHALL BE ACQUIRED BY PRESCRIPTION OR BY ADVERSE POSSESSION.

- 237A -

tally ill, and must further agree to practice the profession of nursing for at least one year immediately after graduation in the state of Minnesota.

Not less than one-third of the amount available for scholarships in each fiscal year shall be awarded for scholarships in accredited schools, located in counties with a population of not exceeding 100,000 persons respectively.

Provided, however, that at the end of six months of each fiscal year any amount remaining unallocated may be awarded for scholarships in any accredited school in the state of Minnesota. Except for amounts that may be necessary to pay any scholarships which have been awarded and not completed or terminated, any unexpended balance of the appropriated sums shall revert to the State treasury at the close of the said fiscal years. Of the amounts appropriated, at least $72,500 shall be made available for scholarships in each of the fiscal years.

Subd. 2. Extra Session Laws 1959, Chapter 71, Article V, Section 37,[3] and Extra Session Laws 1959, Chapter 80,[3] are hereby repealed.

Sec. 3. Subdivision 1. Laws 1959, Chapter 500, Article II, Section 44, Subdivision 6, is amended to read:

161.44

Subd. 6. Conveyance to political subdivisions or agencies of the state. In lieu of the advertisement for sale and conveyance to the highest responsible bidder, the lands may be conveyed for public purposes to any political subdivision or agency of the state upon such terms and conditions as may be agreed upon between the commissioner and the political subdivision or agency, or such lands may be offered for sale and sold at public auction to the highest responsible bidder. Such sale shall be made after publication of notice thereof in a newspaper of general circulation in the area where the property is located for at least two successive weeks and such other advertising as the commissioner of highways may direct. If the sale is made at public auction a duly licensed auctioneer may be retained to conduct such sale, his fees for such service to be paid from the proceeds, and there is appropriated from such proceeds an amount sufficient to pay such fees.

Subd. 2. Laws 1959, Chapter 350,[4] is hereby repealed.

Approved April 20, 1961.

ATTACHMENT, GARNISHMENT OR SALE ON FINAL PROCESS—PROPERTY EXEMPT

CHAPTER 568

H.F. No. 154

An Act relating to property exempt from attachment, garnishment, or sale on final process issued from any court; amending Minnesota Statutes 1957, section 550.37.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1957, Section 550.37, is amended to read:

550.37 **Property exempt**

Subdivision 1. The property mentioned in this subdivision is not liable to attachment, garnishment, or sale on any final process, issued from any court:

(1) The family Bible;

[3] M.S.A. § 119.37

Bound

(2) Family pictures, school books or library, and musical instruments for the use of the family;

(3) A seat or pew in any house or place of public worship;

(4) A lot in any burial ground;

Subd. 2. The property mentioned in this subdivision is not liable to attachment, garnishment, or sale on any final process issued from any court:

(1) All wearing apparel of the debtor and his family; all beds, bedsteads, and bedding kept and used by the debtor and his family; all stoves and appendages put up or kept for the use of the debtor and his family; all cooking utensils; and all other household furniture not enumerated in this subdivision, not exceeding $500 in value;

Subd. 3. The property mentioned in this subdivision is not liable to attachment, garnishment, or sale on any final process issued from any court:

(1) Three cows, ten swine, a span of horses or mules or in lieu of such span of horses or mules, one farm tractor, 100 chickens, 50 turkeys, 20 sheep, and the wool from the same, either in raw material or manufactured into yarn or cloth; food for all the stock above mentioned necessary for one years support, either provided or growing, or both, as the debtor may choose; one wagon, cart, or dray, one sleigh, two plows, one drag; and other farming utensils, including tackle for teams, not exceeding $300 in value;

Subd. 4. The property mentioned in this subdivision is not liable to attachment, garnishment, or sale on any final process issued from any court:

(1) Provisions for the debtor and his family necessary for one years support, either provided or growing, or both, and fuel necessary for one year;

Subd. 5. The property mentioned in this subdivision is not liable to attachment, garnishment, or sale on any final process issued from any court:

(1) The tools, implements, and instruments of a mechanic, miner, or other person, to the exercise of whose trade or business tools, implements, or instruments are necessary, used and kept for the purpose of carrying on his trade; and, in addition thereto, stock in trade, including goods manufactured in whole or in part by him, not exceeding $100 in value; and the library and implements of a professional man;

Subd. 6. The property mentioned in this subdivision is not liable to attachment, garnishment, or sale on any final process issued from any court:

(1) The presses, stones, type, cases, and other tools and implements used by any person or copartnership in printing or publishing a newspaper, or by any person hired by him to use them, not exceeding $2,000 in value, together with stock in trade not exceeding $100 in value;

Subd. 7. The property mentioned in this subdivision is not liable to attachment, garnishment, or sale on any final process issued from any court:

(1) One watch, one sewing machine, one typewriting machine, and one bicycle;

Subd. 8. The property mentioned in this subdivision is not liable to attachment, garnishment, or sale on any final process issued from any court:

(1) Necessary seed for the actual personal use of the debtor for one season, not to exceed in any case the following amounts: 100 bushels of wheat, 100 bushels of rye, 100 bushels of barley, 100 bushels of potatoes, 100 bushels of oats, 100 bushels of flax, 100 bushels of corn; and binding material sufficient for use in harvesting the crop raised from such seed;

Subd. 9. The property mentioned in this subdivision is not liable to attachment, garnishment, or sale on any final process issued from any court:

(1) The library and philosophical and chemical or other apparatus belonging to, and used for the instruction of youth in, any university, college, seminary of learning, or school which is indiscriminately open to the public;

Subd. 10. The property mentioned in this subdivision is not liable to attachment, garnishment, or sale on any final process issued from any court:

(1) All money arising from fire or other insurance upon any property exempt from sale on execution;

Subd. 11. The property mentioned in this subdivision is not liable to attachment, garnishment, or sale on any final process issued from any court:

(1) All money received by, or payable to, a surviving wife or child from insurance upon the life of a deceased husband or father, not exceeding $10,000.

Subd. 12. The property mentioned in this subdivision is not liable to attachment, garnishment, or sale on any final process issued from any court:

(1) All money, relief, or other benefits payable or to be rendered by any police department association, fire department association, beneficiary association, or fraternal benefit association to any person entitled to assistance therefrom, or to any certificate holder thereof or beneficiary under any such certificate;

Subd. 13. The property mentioned in this subdivision is not liable to attachment, garnishment, or sale on any final process issued from any court:

(1) Fifty percent of the net wages of any person earned and unpaid at the time of any attachment, garnishment or the levy of any execution for any services rendered by him for another. Net wages means the amount of wages earned and unpaid, less the amounts the employer is required by law to withhold or deduct. A subsequent attachment, garnishment or levy of execution shall impound such part of earned and unpaid wages not exempt under a prior attachment, garnishment or levy of execution, but in no instance shall more than 50 percent of net wages earned and unpaid be subject to attachment, garnishment or levy of execution. Garnishments shall impound the non-exempt wages in the order of their service upon the employer. The wages exempt from garnishment are exempt as a matter of right, whether claimed or not by the person to whom due. Such exemptions may not be waived. Such exempt wages are payable by the employer when due. Nothing in this paragraph shall be construed to void or supersede any valid assignment of wages made prior to the attachment, garnishment, or levy of execution.

(2) The salary or wages of any debtor who is or has been a recipient of relief based on need shall, upon his return to private employment after having been a recipient of public relief, be exempt from attachment, garnishment or levy of execution for a period of six months after his return to employment. He may take advantage of such exemption provisions only once in every three years. Agencies distributing relief shall, at the request of creditors, inform them whether or not any debtor has been a recipient of relief based on need within such period of six months.

Subd. 14. The property mentioned in this subdivision is not liable to attachment, garnishment, or sale on any final process issued from any court:

(1) The earnings of the minor child of any debtor or the proceeds thereof, by reason of any liability of such debtor not contracted for the special benefit of such minor child.

Subd. 15. The property mentioned in this subdivision is not liable to attachment, garnishment, or sale on any final process issued from any court:

(1) The claim for damages recoverable by any person by reason of a levy upon or sale under execution of his exempt personal property, or by reason of the wrongful taking or detention of such property by any person, and any judgment recovered for such damages.

Subd. 16. All articles exempted by this section shall be selected by the debtor, his agent, or legal representative.

Subd. 17. The exemptions provided for in subdivisions 2 to 15 extend only to debtors having an actual residence in the state.

Subd. 18. The property exempted by subdivisions 1 to 15 is not exempt from attachment, garnishment, or execution in an action for the recovery of the purchase money of the same property.

Approved April 20, 1961.

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MINN. STATUTES CHAPTER

550.05 WHEN RETURNABLE; INVENTORY.

SUBDIVISION 1. THE EXECUTION SHALL BE MADE RETURNABLE, WITHIN 60 DAYS AFTER ITS RECEIPT BY THE OFFICER, TO THE CLERK WITH WHOM THE JUDGMENT ROLL IS FILED; BUT IF THE OFFICER HAVING SUCH EXECUTION LEVIES UPON ANY PROPERTY BEFORE THE EXPIRATION OF SUCH 60 DAYS, HE MAY RETAIN THE EXECUTION IN HIS HANDS UNTIL HE SELLS SUCH PROPERTY IN THE MANNER PRESCRIBED BY LAW. UPON DEMAND OF THE JUDGMENT CREDITOR OR HIS ATTORNEY WITHIN SUCH 60 DAYS, THE OFFICER SHALL PAY TO HIM ALL MONEYS COLLECTED UPON EXECUTION IN HIS HANDS, AFTER DEDUCTING HIS FEES. THE OFFICER SHALL MAKE A FULL INVENTORY OF THE PROPERTY LEVIED ON, AND RETURN IT WITH THE EXECUTION.

SUBD. 2. IN CASE OF SATISFACTION, EITHER PARTIAL OR IN FULL, SUCH OFFICER SHALL MAKE RETURN THEREOF TO THE CLERK ORIGINALLY ISSUING SUCH WRIT OF EXECUTION AND A DUPLICATE COPY THEREOF TO THE CLERK OF HIS OWN COUNTY, IF EXECUTION IS UPON JUDGMENT TRANSCRIPTED FROM ANOTHER COUNTY. THE CLERK TO WHOM SUCH DUPLICATE RETURN IS SO MADE SHALL ENTER THE RECORD OF SUCH SATISFACTION UPON HIS JUDGMENT DOCKET AND NOTE IN THE MARGIN THEREOF THAT SUCH ENTRY IS MADE UPON "DUPLICATE RETURN".

613.38 OFFERING FALSE INSTRUMENTS FOR FILING OR RECORD.

EVERY PERSON WHO SHALL KNOWINGLY PROCURE OR OFFER ANY FALSE OR FORGED INSTRUMENT TO BE FILED, REGISTERED, OR RECORDED IN ANY PUBLIC OFFICE, WHICH INSTRUMENT, IF GENUINE, MIGHT BE FILED, REGISTERED, OR RECORDED UNDER ANY LAW OF THIS STATE OR THE UNITED STATES, SHALL BE GUILTY OF A FELONY.

MINN. ST. CH. 566 FORCIBLE ENTRY AND UNLAWFUL DETAINER

566.01 FORCIBLE ENTRY; PENALTY.

NO PERSON SHALL MAKE ENTRY INTO LANDS OR TENEMENTS EXCEPT IN CASES WHERE HIS ENTRY IS ALLOWED BY LAW, AND IN SUCH CASES HE SHALL NOT ENTER BY FORCE, BUT ONLY IN A PEACEABLE MANNER. IF ANY PERSON DOES TO THE CONTRARY, HE SHALL BE PUNISHED BY FINE.

566.02 UNLAWFUL DETENTION OF LANDS OR TENEMENTS SUBJECT TO FINE.

WHEN ANY PERSON HAS MADE UNLAWFUL OR FORCIBLE ENTRY INTO LANDS OR TENEMENTS, AND DETAINS THE SAME, OR, HAVING PEACEABLY ENTERED, UNLAWFULLY DETAINS THE SAME, HE SHALL BE FINED, AND THE PERSON ENTITLED TO THE PREMISES MAY RECOVER POSSESSION THEREOF IN THE MANNER HEREINAFTER PROVIDED.

566.05 COMPLAINT AND SUMMONS.

THE PERSON COMPLAING SHALL FILE A COMPLAINT WITH A JUSTICE OF THE PEACE, DESCRIBING THE PREMISES OF WHICH POSSESSION IS CLAIMED, STATING THE FACTS WHICH AUTHORIZE THE RECOVERY, AND PRAYING FOR RESTITUTION THEREOF. THE JUSTICE SHALL THEREUPON ISSUE

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A SUMMONS, DIRECTED TO THE SHERIFF OR ANY CONSTABLE OF THE COUNTY, COMMANDING HIM TO SUMMON THE PERSON AGAINST WHOM SUCH COMPLAINT IS MADE TO APPEAR BEFORE HIM ON A DAY AND AT A PLACE IN SUCH SUMMONS NAMED, WHICH SHALL NOT BE LESS THAN THREE, NOR MORE THAN TEN, DAYS FROM THE DAY OF ISSUING THE SAME. A COPY OF THE COMPLAINT SHALL BE ATTACHED TO THE SUMMONS, WHICH SHALL STATE THAT IT IS SO ATTACHED, AND THAT THE ORIGINAL HAS BEEN FILED.

566.09 JUDGMENT; FINE; EXECUTION.

IF, UPON THE TRIAL, THE JUSTICE OR JURY FIND THE DEFENDANT OR ANY OF SEVERAL DEFENDANTS GUILTY OF THE ALLEGATIONS IN THE COMPLAINT, THE JUSTICE SHALL THEREUPON ENTER JUDGMENT THAT THE PLAINTIFF HAVE RESTITUTION OF THE PREMISES, AND TAX THE COSTS FOR HIM, AND, WHEN THE ACTION IS BROUGHT UNDER SECTION 566.02, SHALL IMPOSE SUCH A FINE AGAINST THE DEFENDANT NOT EXCEEDING $100 AS HE MAY DEEM JUST. THE JUSTICE SHALL ISSUE EXECUTION IN FAVOR OF THE PLAINTIFF FOR SUCH COSTS, AND ALSO ISSUE A WRIT OF RESTITUTION. IF THE JUSTICE OR JURY SHALL FIND THAT THE DEFENDANT IS NOT GUILTY AS AFORESAID, HE SHALL ENTER JUDGMENT FOR THE DEFENDANT, TAX THE COSTS AGAINST THE PLAINTIFF, AND ISSUE EXECUTION THEREFOR.

MINN. STATUTES CHAPTER

613.39 PERJURY

EVERY PERSON WHO SHALL SWEAR OR AFFIRM THAT HE WILL TRULY TESTIFY, DECLARE, DEPOSE, OR CERTIFY, OR THAT ANY TESTIMONY, DECLARATION, DEPOSITION, CERTIFICATE, AFFIDAVIT, OR OTHER WRITING BY HIM SUBSCRIBED IS TRUE, IN AN ACTION OR SPECIAL PROCEEDING, OR UPON ANY HEARING OR INQUIRY, OR ON ANY OCCASION IN WHICH AN OATH IS REQUIRED BY LAW, OR IS NECESSARY FOR THE PROSECUTION OR DEFENSE OF A PRIVATE RIGHT OR FOR THE ENDS OF PUBLIC JUSTICE, OR MAY LAWFULLY BE ADMINISTERED, AND WHO, IN SUCH ACTION OR PROCEEDING, OR ON SUCH HEARING, INQUIRY, OR OTHER OCCASION, SHALL WILFULLY AND KNOWINGLY TESTIFY, DECLARE, DEPOSE, OR CERTIFY FALSELY IN ANY MATERIAL MATTER, OR SHALL STATE IN HIS TESTIMONY, DECLARATION, DEPOSITION, AFFIDAVIT, OR CERTIFICATE ANY MATERIAL MATTER TO BE TRUE, WHICH HE KNOWS TO BE FALSE, SHALL BE GUILTY OF PERJURY.

613.41 KNOWLEDGE OF MATERIALITY NOT NECESSARY.

IT SHALL BE NO DEFENSE TO A PROSECUTION FOR PERJURY THAT DEFENDANT DID NOT KNOW THE MATERIALITY OF HIS FALSE STATEMENT, OR THAT IT DID NOT, IN FACT, AFFECT THE PROCEEDING IN OR FOR WHICH IT WAS MADE. IT SHALL BE SUFFICIENT THAT IT WAS MATERIAL, AND MIGHT HAVE AFFECTED SUCH PROCEEDING.

613.43 STATEMENT OF WHAT ONE DOES NOT KNOW TO BE TRUE.

EVERY UNQUALIFIED STATEMENT OF THAT WHICH ONE DOES NOT KNOW TO BE TRUE IS EQUIVALENT TO A STATEMENT OF THAT WHICH HE KNOWS TO BE FALSE.

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MINN. STATUTES CHAP.

613.46 OFFERING FALSE EVIDENCE.

EVERY PERSON WHO, UPON ANY TRIAL, HEARING, INQUIRY, INVESTIGATION OR OTHER PROCEEDING AUTHROIZED BY LAW, SHALL OFFER OR PROCURE TO BE OFFERED IN EVIDENCE, AS GENUINE, A BOOK, PAPER, DOCUMENT, RECORD, OR OTHER INSTRUMENT IN WRITING, KNOWING THE SAME TO HAVE BEEN FORGED OR FRAUDULENTLY ALTERED, SHALL BE GUILTY OF A FELONY.

613.51 NEGLECT OF DUTY BY OFFICERS.

EVERY PUBLIC OFFICER, OR PERSON HOLDING A PUBLIC TRUST OR EMPLOYMENT, WHO SHALL WILFULLY NEGLECT OR OMIT TO PERFORM ANY DUTY ENJOINED UPON HIM BY LAW, IN CASE NO PUNISHMENT IS SPECIALLY PROVIDED THEREFOR, SHALL BE GUILTY OF A GROSS MISDEMEANOR.

613.53 ARREST WITHOUT AUTHORITY.

EVERY PUBLIC OFFICER, OR PERSON PRETENDING TO BE A PUBLIC OFFICER, WHO SHALL KNOWINGLY, UNDER THE PRETENSE OR COLOR OF ANY PROCESS, ARREST ANY PERSON OR DETAIN HIM AGAINST HIS WILL, OR SHALL SEIZE OR LEVY UPON ANY PROPERTY, OR DISPOSSES ANY ONE OF ANY LANDS OR TENEMENTS, WITHOUT A REGULAR PROCESS THEREFOR, SHALL BE GUILTY OF A GROSS MISDEMEANOR.

613.59 MISCONDUCT BY ATTORNEYS.

EVERY ATTORNEY OR COUNSELOR AT LAW WHO SHALL BE GUILTY OF ANY DECEIT OR COLLUSION, OR SHALL CONSENT THERETO, WITH INTENT TO DECEIVE THE COURT OR ANY PARTY, OR WHO SHALL DELAY HIS CLIENT'S SUIT WITH A VIEW TO HIS OWN GAIN, SHALL BE GUILTY OF A MISDEMEANOR AND, IN ADDITION TO THE PUNISHMENT PRESCRIBED BY LAW THEREFOR, HE SHALL FORFEIT TO THE PARTY INJURED TREBLE DAMAGES, TO BE RECOVERED IN A CIVIL ACTION.

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613.62 OTHER FALSE CERTIFICATES.

EVERY PUBLIC OFFICER WHO, BEING AUTHORIZED BY LAW TO MAKE OR GIVE A CERTIFICATE OR OTHER WRITING, SHALL KNOWINGLY MAKE AND DELIVER AS TRUE SUCH A CERTIFICATE OR WRITING, CONTAINING ANY STATEMENT WHICH HE KNOWS TO BE FALSE, IN A CASE WHERE THE PUNISHMENT THEREOF IS NOT EXPRESSLY PRESCRIBED BY LAW, SHALL BE GUILTY OF A GORSS MISDEMEANOR.

613.65 COMPOUNDING CRIMES.

EVERY PERSON WHO SHALL TAKE MONEY OR OTHER PROPERTY, GRATUITY, OR REWARD, OR AN ENGAGEMENT OR PROMISE THEREFOR, UPON ANY AGREEMENT OR UNDERSTANDING, EXPRESS OR IMPLIED, TO COMPOUND OR CONCEAL A CRIME OR VIOLATION OF A STATUTE, OR TO ABSTAIN FROM, DISCONTINUE, OR DELAY A PROSECUTION THEREFOR, OR TO WITHHOLD ANY EVIDENCE THEREOF, EXCEPT IN A CASE WHERE A COMPROMISE IS ALLOWED BY LAW, SHALL BE GUILTY

(1) Of a felony, and punished by imprisonment in the state prison for not more than five years, where the agreement or understanding relates to a felony punishable by death or by imprisonment in the state prison for life;

(2) Of a felony, and punished by imprisonment in the state prison for not more than three years, where the agreement or understanding relates to any other felony;

(3) Of a gross misdemeanor, and punished by imprisonment in a county jail for not more than one year, or by fine of not more than $250, or by both, where the agreement or understanding relates to a misdemeanor, or a gross misdemeanor or to a violation of a statute for which a pecuniary penalty or forfeiture is prescribed.

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UPON THE TRIAL OF AN INDICTMENT FOR COMPOUNDING A CRIME, IT SHALL NOT BE NECESSARY TO PROVE THAT ANY PERSON HAS BEEN CONVICTED OF THE CRIME OR VIOLATION OF STATUTE IN RELATION TO WHICH ANY AGREEMENT OR UNDERSTANDING HEREIN PROHIBITED WAS MADE.

613.70 CONSPIRACY: HOW PUNISHED.

WHEN TWO OR MORE PERSONS SHALL CONSPIRE :

(1) TO COMMIT A CRIME;
(2) FALSELY AND MALICIOUSLY TO INDICT ANOTHER FOR A CRIME, OR PROCURE HIM TO BE COMPLAINED OF OR ARRESTED FOR A CRIME:

(3) FALSELY TO INSTITUTE OR MAINTAIN ANY ACTION OR SPECIAL PROCEEDING;

(4) TO CHEAT AND DEFRAUD ANOTHER OUT OF PROPERTY BY MEANS WHICH ARE IN THEMSELVES CRIMINAL, OR WHICH, IF EXECUTED, WOULD BE A CHEAT, OR TO OBTAIN MONEY OR OTHER PROPERTY BY FALSE PRETENSES;

(5) TO PREVENT ANOTHER FROM EXERCISING ANY LAWFUL TRADE OR CALLING, OR FROM DOING ANY OTHER LAWFUL ACT, BY FORCE, THREATS, INTIMIDATION, OR BY INTERFERING OR THREATENING TO INTERFERE WITH TOOLS, IMPLEMENTS, OR PROPERTY BELONGING TO OR USED BY ANOTHER, OR WITH THE USE OR EMPLOYMENT THEREOF; OR

(6) TO COMMIT ANY ACT INJURIOUS TO THE PUBLIC HEALTH, PUBLIC MORALS, TRADE, OR COMMERCE, OR FOR THE PERVERSION OR OBSTRUCTION OF PUBLIC JUSTICE OR THE DUE ADMINISTRATION OF THE LAWS.

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613.75 COMMON BARRATRY.

EVERY PERSON WHO SHALL EXCITE GROUNDLESS JUDICIAL PROCEEDINGS SHALL HAVE COMMITTED COMMON BARRATRY, AND BE GUILTY OF A MISDEMEANOR; BUT NO PERSON SHALL BE CONVICTED OF SUCH OFFENSE EXCEPT UPON PROOF THAT HE HAS EXCITED ACTIONS OR LEGAL PROCEEDINGS IN AT LEAST THREE INSTANCES, AND WITH A CORRUPT OR MALICIOUS INTENT TO VEX AND ANNOY. UPON PROSECUTION FOR COMMON BARRATRY, THE FACT THAT DEFENDANT WAS HIMSELF A PARTY IN INTEREST OR UPON THE RECORD IN ANY ACTION OR LEGAL PROCEEDING COMPLAINED OF SHALL NOT BE A DEFENSE.

MINNESOTA RULES OF CIVIL PROCEDURE

RULE 28.03 DISQUALIFICATION FOR INTEREST.

NO DEPOSITION SHALL BE TAKEN BEFORE A PERSON WHO IS A RELATIVE OR EMPLOYE OR ATTORNEY OR COUNSEL OF ANY OF THE PARTIES, OR IS A RELATIVE OR EMPLOYE OF SUCH ATTORNEY OR COUNSEL, OR IS FINANCIALLY INTERESTED IN THE ACTION.

RULE 32. EFFECT OF ERRORS AND IRREGULARITIES IN DEPOSITIONS.

32.01 AS TO NOTICE.

ALL ERRORS AND IRREGULARITIES IN THE NOTICE FOR TAKING A DEPOSITION ARE WAIVED UNLESS WRITTEN OBJECTION IS PROMPTLY SERVED UPON THE PARTY GIVING THE NOTICE.

38.03 PLACING ACTION ON CALENDAR.

A PARTY DESIRING TO HAVE AN ACTION PLACED ON THE CALENDAR FOR TRIAL SHALL, AFTER ISSUE IS JOINED, PREPARE A NOTE OF ISSUE SETTING FORTH THE TITLE OF THE ACTION, WHETHER THE ISSUE IS ONE OF FACT OR OF LAW, AND IF AN ISSUE OF FACT WHETHER IT IS TRIABLE BY COURT OR BY JURY, AND THE NAMES AND ADDRESSES OF THE RESPECTIVE COUNSEL, AND SHALL SERVE THE SAME ON COUNSEL FOR ALL PARTIES NOT IN DEFAULT AND FILE IT, WITH PROOF OF SERVICE, WITH THE CLERK WITHIN 10 DAYS AFTER SUCH SERVICE IN ALL DISTRICTS WHERE BUT ONE TERM OF COURT IS HELD ANNUALLY AND IN ALL OTHER DISTRICTS AT LEAST 8 DAYS BEFORE THE BEGINNING OF A GENERAL TERM; AND THEREUPON THE ACTION SHALL BE PLACED ON THE CALENDAR FOR TRIAL AND SHALL REMAIN THEREON FROM TERM TO TERM UNTIL TRIED OR STRICKEN THEREFROM. THE PARTY SERVING A NOTE OF ISSUE SHALL, AND ANY OTHER PARTY MAY, SERVE A NOTE OF ISSUE UPON COUNSEL FOR ANY PERSON WHO BECOMES A PARTY TO THE ACTION SUBSEQUENT TO THE INITIAL SERVICE. (AS AMENDED MARCH 3, 1959, EFFECTIVE JULY 1, 1959).

MINNESOTA RULES OF CIVIL PROCEDURE

RULE 4.06 RETURN.

SERVICE OF SUMMONS AND OTHER PROCESS SHALL BE PROVED BY THE CERTIFICATE OF THE SHERIFF MAKING IT, BY THE AFFIDAVIT OF ANY OTHER PERSON MAKING IT, BY THE WRITTEN ADMISSION OF THE PARTY SERVED, AND, IF SERVED BY PUBLICATION, BY THE AFFIDAVIT OF THE PRINTER OR HIS FOREMAN OR CLERK. THE PROOF OF SERVICE IN ALL CASES OTHER THAN BY PUBLISHED NOTICE SHALL STATE THE TIME, PLACE, AND MANNER OF SERVICE. FAILURE TO MAKE PROOF OF SERVICE SHALL NOT AFFECT THE VALIDITY OF THE SERVICE.

RULE 77.04 NOTICE OF ORDERS OR JUDGMENTS.

IMMEDIATELY UPON THE FILING OF AN ORDER OR DECISION OR ENTRY OF A JUDGMENT, THE CLERK SHALL SERVE A NOTICE OF THE FILING OR ENTRY BY MAIL UPON EVERY PARTY AFFECTED THEREBY OR HIS ATTORNEY OF RECORD, WHETHER OR NOT SUCH PARTY HAS APPEARED IN THE ACTION, AT HIS LAST KNOWN ADDRESS, AND SHALL MAKE A NOTE IN HIS RECORDS OF THE MAILING, BUT SUCH NOTICE SHALL NOT LIMIT THE TIME FOR TAKING AN APPEAL OR OTHER PROCEEDING ON SUCH ORDER, DECISION OR JUDGMENT.

RULE 69. EXECUTION.

PROCESS TO ENFORCE A JUDGMENT FOR THE PAYMENT OF MONEY SHALL BE A WRIT OF EXECUTION, UNLESS THE COURT DIRECTS OTHERWISE. THE PROCEDURE ON EXECUTION, IN PROCEEDINGS SUPPLEMENTARY TO AND IN AID OF A JUDGMENT, AND IN PROCEEDINGS ON AND IN AID OF EXECUTION SHALL BE IN ACCORDANCE WITH M.S.A. 1949, c. 550. IN AID OF THE JUDGMENT OR EXECUTION, THE JUDGMENT CREDITOR, OR HIS SUCCESSOR IN INTEREST WHEN THAT INTEREST APPEARS OF RECORD, MAY EXAMINE ANY PERSON, INCLUDING THE JUDGMENT DEBTOR, IN THE MANNER PROVIDED IN THESE RULES FOR TAKING DEPOSITIONS.

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MINNESOTA RULES OF CIVIL PROCEDURE

RULE 56.04 CASE NOT FULLY ADJUDICATED ON MOTION.

IF, ON MOTION UNDER THIS RULE, JUDGMENT IS NOT RENDERED UPON THE WHOLE CASE OR FOR ALL THE RELIEF ASKED AND A TRIAL IS NECESSARY, THE COURT AT THE HEARING OF THE MOTION, BY EXAMING THE PLEADINGS AND THE EVIDENCE BEFORE IT AND BY INTERROGATING COUNSEL, SHALL, IF PRACTICABLE, ASCERTAIN WHAT MATERIAL FACTS EXIST WITHOUT SUBSTANTIAL CONTROVERSY AND WHAT MATERIAL FACTS ARE ACTUALLY AND IN GOOD FAITH CONTROVERTED. IT SHALL THEREUPON MAKE AN ORDER SPECIFYING THE FACTS THAT APPEAR WITHOUT SUBSTANTIAL CONTROVERSY, INCLUDING THE EXTENT TO WHICH THE AMOUNT OF DAMAGES OR OTHER RELIEF IS NOT IN CONTROVERSY, AND DIRECTING SUCH FURTHER PROCEEDINGS IN THE ACTION AS ARE JUST. UPON THE TRIAL OF THE ACTION THE FACTS SO SPECIFIED SHALL BE DEEMED ESTABLISHED, AND THE TRIAL SHALL BE CONDUCTED ACCORDINGLY.

FEDERAL RULES OF CRIMINAL PROCEDURE

RULE 34. ARREST OF JUDGMENT

THE COURT ON MOTION OF A DEFENDANT SHALL ARREST JUDGMENT IF THE INDICTMENT OR INFORMATION DOES NOT CHARGE AN OFFENSE OR IF THE COURT WAS WITHOUT JURISDICTION OF THE OFFENSE CHARGED. THE MOTION IN ARREST OF JUDGMENT SHALL BE MADE WITHIN 7 DAYS AFTER VERDICT OR FINDING OF GUILTY, OR AFTER PLEA OF GUILTY OR NOLO CONTENDERE, OR WITHIN SUCH FURTHER TIME AS THE COURT MAY FIX DURING THE 7-DAY PERIOD.

RULE 35. CORRECTION OR REDUCTION OF SENTENCE.

THE COURT MAY CORRECT AN ILLEGAL SENTENCE AT ANY TIME AND MAY CORRECT A SENTENCE IMPOSED IN AN ILLEGAL MANNER WITHIN THE TIME PROVIDED HEREIN FOR THE REDUCTION OF SENTENCE. THE COURT MAY REDUCE A SENTENCE WITHIN 120 DAYS AFTER THE SENTENCE IS IMPOSED, OR WITHIN 120 DAYS AFTER RECEIPT BY THE COURT OF A MANDATE ISSUED UPON AFFIRMANCE OF THE JUDGMENT OR DISMISSAL OF THE APPEAL, OR WITHIN 120 DAYS AFTER ENTRY OF ANY ORDER OR JUDGMENT OF THE SUPREME COURT DENYING REVIEW OF, OR HAVING THE EFFECT OF UPHOLDING, A JUDGMENT OF CONVICTION. THE COURT MAY ALSO REDUCE A SENTENCE UPON REVOCATION OF PROBATION AS PROVIDED BY LAW.

18 USC 241 CONSPIRACY AGAINST RIGHTS OF CITIZENS.

IF TWO OR MORE PERSONS CONSPIRE TO INJURE, OPPRESS, THREATEN, OR INTIMIDATE ANY CITIZEN IN THE FREE EXERCISE OR ENJOYMENT OF ANY RIGHT OR PRIVILEGE SECURED TO HIM BY THE CONSTITUTION OR LAWS OF THE UNITED STATES, OR BECAUSE OF HIS HAVING SO EXERCISED THE SAME; OR

IF TWO OR MORE PERSONS GO IN DISGUISE ON THE HIGHWAY, OR ON THE PREMISES OF ANOTHER, WITH INTENT TO PREVENT OR HINDER HIS FREE EXERCISE OR ENJOYMENT OF ANY RIGHT OR PRIVILEGE SO SECURED—

THEY SHALL BE FINED NOT MORE THAN $5,000 OR IMPRISONED NOT MORE THAN TEN YEARS, OR BOTH.

18 USC 242 DEPRIVATION OF RIGHTS UNDER COLOR OF LAW.

WHOEVER, UNDER COLOR OF ANY LAW, STATUTE, ORDINANCE, REGULATION, OR CUSTOM, WILLFULLY SUBJECTS ANY INHABITANT OF ANY STATE, TERRITORY, OR DISTRICT TO THE DEPRIVATION OF ANY RIGHTS, PRIVILEGES, OR IMMUNITIES SECURED OR PROTECTED BY THE CONSTITUTION OR LAWS OF THE UNITED STATES, OR TO DIFFERENT PUNISHMENTS, PAINS, OR PENALTIES, ON ACCOUNT OF SUCH INHABITANT BEING AN ALIEN, OR BY REASON OF HIS COLOR, OR RACE, THAN ARE PRESCRIBED FOR THE PUNISHMENT OF CITIZENS, SHALL BE FINED NOT MORE THAN $1,000 OR IMPRISONED NOT MORE THAN ONE YEAR, OR BOTH.

18 USC 286 CONSPIRACY TO DEFRAUD THE GOVERNMENT WITH RESPECT TO CLAIMS.

WHOEVER ENTERS INTO ANY AGREEMENT, COMBINATION, OR CONSPIRACY TO DEFRAUD THE UNITED STATES, OR ANY DEPARTMENT OR AGENCY THEREOF, BY OBTAINING OR AIDING TO OBTAIN THE PAYMENT OR ALLOWANCE OF ANY FALSE, FICTITIOUS OR FRAUDULENT CLAIM, SHALL BE FINED NOT MORE THAN $10,000 OR IMPRISONED NOT MORE THAN TEN YEARS, OR BOTH.

18 USC 287 FALSE, FICTITIOUS OR FRAUDULENT CLAIMS.

WHOEVER MAKES OR PRESENTS TO ANY PERSON OR OFFICER IN THE CIVIL, MILITARY, OR NAVAL SERVICE OF THE UNITED STATES, OR TO ANY DEPARTMENT OR AGENCY THEREOF, ANY CLAIM UPON OR AGAINST THE UNITED STATES, OR ANY DEPARTMENT OR AGENCY THEREOF, KNOWING SUCH CLAIM TO BE FALSE, FICTITIOUS, OR FRAUDULENT, SHALL BE FINED NOT MORE THAN $10,000 OR IMPRISONED NOT MORE THAN FIVE YEARS, OR BOTH.

18 USC 371 CONSPIRACY TO COMMIT OFFENSE OR TO DEFRAUD UNITED STATES.

IF TWO OR MORE PERSONS CONSPIRE EITHER TO COMMIT ANY OFFENSE AGAINST THE UNITED STATES, OR TO DEFRAUD THE UNITED STATES, OR ANY AGENCY THEREOF IN ANY MANNER OR FOR ANY PURPOSE, AND ONE OR MORE OF SUCH PERSONS DO ANY ACT TO EFFECT THE OBJECT OF THE CONSPIRACY, EACH SHALL BE FINED NOT MORE THAN $10,000 OR IMPRISONED NOT MORE THAN FIVE YEARS, OR BOTH.

IF, HOWEVER, THE OFFENSE, THE COMMISSION OF WHICH IS THE OBJECT OF THE CONSPIRACY, IS A MISDEMEANOR ONLY, THE PUNISHMENT FOR SUCH CONSPIRACY SHALL NOT EXCEED THE MAXIMUM PUNISHMENT PROVIDED FOR SUCH MISDEMEANOR.

18 USC 495 CONTRACTS, DEEDS, AND POWERS OF ATTORNEY.

WHOEVER FALSELY MAKES, ALTERS, FORGES, OR COUNTERFEITS ANY DEED, POWER OF ATTORNEY, ORDER, CERTIFICATE, RECEIPT, CONTRACT, OR OTHER WRITING, FOR THE PURPOSE OF OBTAINING OR RECEIVING, OR OF ENABLING ANY OTHER PERSON, EITHER DIRECTLY OR INDIRECTLY, TO OBTAIN OR RECEIVE FROM THE UNITED STATES OR ANY OFFICERS OR AGENTS THEREOF, ANY SUM OF MONEY; OR

WHOEVER UTTERS OR PUBLISHES AS TRUE ANY SUCH FALSE, FORGED ALTERED, OR COUNTERFEITED WRITING, WITH INTENT TO DEFRAUD THE UNITED STATES, KNOWING THE SAME TO BE FALSE, ALTERED, FORGED, OR COUNTERFEITED; OR

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WHOEVER TRANSMITS TO, OR PRESENTS AT ANY OFFICE OR OFFICER OF THE UNITED STATES, ANY SUCH WRITING IN SUPPORT OF, OR IN RELATION TO, ANY ACCOUNT OR CLAIM, WITH INTENT TO DEFRAUD THE UNITED STATES, KNOWING THE SAME TO BE FALSE, ALTERED, FORGED, OR COUNTERFEITED—

SHALL BE FINED NOT MORE THAN $1,000 OR IMPRISONED NOT MORE THAN TEN YEARS, OR BOTH.

18 USC 648 CUSTODIANS, GENERALLY, MISUSING PUBLIC FUNDS.

WHOEVER, BEING AN OFFICER OR OTHER PERSON CHARGED BY ANY ACT OF CONGRESS WITH THE SAFE-KEEPING OF THE PUBLIC MONEYS, LOANS, USES, OR CONVERTS TO HIS OWN USE, OR DEPOSITS IN ANY BANK OR EXCHANGES FOR OTHER FUNDS, EXCEPT AS SPECIALLY ALLOWED BY LAW, ANY PORTION OF THE PUBLIC MONEYS INTRUSTED TO HIM FOR SAFE-KEEPING, IS GUILTY OF EMBEZZLEMENT OF THE MONEY SO LOANED, USED, CONVERTED, DEPOSITED, OR EXCHANGED, AND SHALL BE FINED IN A SUM EQUAL TO THE AMOUNT OF MONEY SO EMBEZZLED OR IMPRISONED NOT MORE THAN TEN YEARS, OR BOTH; BUT IF THE AMOUNT EMBEZZLED DOES NOT EXCEED $100, HE SHALL BE FINED NOT MORE THAN $1,000 OR IMPRISONED NOT MORE THAN ONE YEAR, OR BOTH.

18 USC 656 THEFT, EMBEZZLEMENT, OR MISAPPLICATION BY BANK OFFICER OR EMPLOYEE.

WHOEVER, BEING AN OFFICER, DIRECTOR, AGENT OR EMPLOYEE OF, OR CONNECTED IN ANY CAPACITY WITH ANY FEDERAL RESERVE BANK, MEMBER BANK, NATIONAL BANK OR INSURED BANK, OR A RECEIVER OF A NATIONAL BANK, OR ANY AGENT OR EMPLOYEE OF THE RECEIVER, OR A FEDERAL RESERVE AGENT, OR AN AGENT OR EMPLOYEE OF A FEDERAL RESERVE AGENT OR OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, EMBEZZLES, ABSTRACTS, PURLOINS OR WILLFULLY MISAPPLIES ANY OF THE MONEYS, FUNDS OR CREDITS OF SUCH BANK OR ANY

MONEYS, FUNDS, ASSETS OR SECURITIES INTRUSTED TO THE CUSTODY OR CARE OF SUCH BANK, OR TO THE CUSTODY OR CARE OF ANY SUCH AGENT, OFFICER, DIRECTOR, EMPLOYEE OR RECEIVER, SHALL BE FINED NOT MORE THAN $5,000 OR IMPRISONED NOT MORE THAN FIVE YEARS, OR BOTH; BUT IF THE AMOUNT EMBEZZLED, ABSTRACTED, PURLOINED OR MISAPPLIED DOES NOT EXCEED $100, HE SHALL BE FINED NOT MORE THAN $1,000 OR IMPRISONED NOT MORE THAN ONE YEAR, OR BOTH.

AS USED IN THIS SECTION, THE TERM "NATIONAL BANK" IS SYNONYMOUS WITH "NATIONAL BANKING ASSOCIATION"; "MEMBER BANK" MEANS AND INCLUDES ANY NATIONAL BANK, STATE BANK, OR BANK AND TRUST COMPANY WHICH HAS BECOME A MEMBER OF ONE OF THE FEDERAL RESERVE BANKS; AND "INSURED BANK" INCLUDES ANY BANK, BANKING ASSOCIATION, TRUST COMPANY, SAVINGS BANK OR OTHER BANKING INSTITUTION, THE DEPOSITS OF WHICH ARE INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION.

18 USC 1001 STATEMENTS OR ENTRIES GENERALLY.

WHOEVER, IN ANY MATTER WITHIN THE JURISDICTION OF ANY DEPARTMENT OR AGENCY OF THE UNITED STATES KNOWINGLY AND WILLFULLY FALSIFIES, CONCEALS OR COVERS UP BY ANY TRICK, SCHEME, OR DEVICE A MATERIAL FACT OR MAKES ANY FALSE, FICTITIOUS OR FRAUDULENT STATEMENTS OR REPRESENTATIONS, OR MAKES OR USES ANY FALSE WRITING OR DOCUMENT KNOWING THE SAME TO CONTAIN ANY FALSE, FICTITIOUS OR FRAUDULENT STATEMENT OR ENTRY, SHALL BE FINED NOT MORE THAN $10,000 OR IMPRISONED NOT MORE THAN FIVE YEARS, OR BOTH.

18 USC 1002 POSSESSION OF FALSE PAPERS TO DEFRAUD UNITED STATES.

WHOEVER, KNOWINGLY AND WITH INTENT TO DEFRAUD THE UNITED STATES, OR ANY AGENCY THEREOF, POSSESSES ANY FALSE, ALTERED, FORGED, OR COUNTERFEITED WRITING OR DOCUMENT FOR THE PURPOSE OF

ENABLING ANOTHER TO OBTAIN FROM THE UNITED STATES, OR FROM ANY AGENCY, OFFICER OR AGENT THEREOF, ANY SUM OF MONEY, SHALL BE FINED NOT MORE THAN $10,000 OR IMPRISONED NOT MORE THAN FIVE YEARS, OR BOTH.

18 USC 1021 TITLE RECORDS.

WHOEVER, BEING AN OFFICER OR OTHER PERSON AUTHORIZED BY ANY LAW OF THE UNITED STATES TO RECORD A CONVEYANCE OF REAL PROPERTY OR ANY OTHER INSTRUMENT WHICH BY SUCH LAW MAY BE RECORDED, KNOWINGLY CERTIFIES FALSELY THAT SUCH CONVEYANCE OR INSTRUMENT HAS OR HAS NOT BEEN RECORDED, SHALL BE FINED NOT MORE THAN $1,000 OR IMPRISONED NOT MORE THAN FIVE YEARS, OR BOTH.

18 USC 1341 FRAUDS AND SWINDLES

WHOEVER, HAVING DEVISED OR INTENDING TO DEVISE ANY SCHEME OR ARTIFICE TO DEFRAUD, OR FOR OBTAINING MONEY OR PROPERTY BY MEANS OF FALSE OR FRAUDULENT PRETENSES, REPRESENTATIONS, OR PROMISES, OR TO SELL, DISPOSE OF, LOAN, EXCHANGE, ALTER, GIVE AWAY, DISTRIBUTE, SUPPLY, OR FURNISH OR PROCURE FOR UNLAWFUL USE ANY COUNTERFEIT OR SPURIOUS COIN, OBLIGATION, SECURITY, OR OTHER ARTICLE, OR ANYTHING REPRESENTED TO BE OR INTIMATED OR HELD OUT TO BE SUCH COUNTERFEIT OR SPURIOUS ARTICLE, FOR THE PURPOSE OF EXECUTING SUCH SCHEME OR ARTIFICE OR ATTEMPTING SO TO DO, PLACES IN ANY POST OFFICE OR AUTHORIZED DEPOSITORY FOR MAIL MATTER, ANY MATTER OR THING WHATEVER TO BE SENT OR DELIVERED BY THE POST OFFICE DEPARTMENT, OR TAKES OR RECEIVES THEREFROM, ANY SUCH MATTER OR THING, OR KNOWINGLY CAUSES TO BE DELIVERED BY MAIL ACCORDING TO THE DIRECTION THEREON, OR AT THE PLACE AT WHICH IT IS DIRECTED TO BE DELIVERED BY THE PERSON TO WHOM IT IS ADDRESSED, ANY SUCH MATTER OR THING, SHALL BE FINED NOT MORE THAN $1,000 or IMPRISONED NOT MORE THAN FIVE YEARS, OR BOTH. AS AMENDED MAY 24, 1949, c. 139 § 34, 63 Stat. 94.

18 USC 1506 THEFT OR ALTERATION OF RECORD OR PROCESS; FALSE BAIL.

WHOEVER FELONIOUSLY STEALS, TAKES AWAY, ALTERS, FALSIFIES, OR OTHERWISE AVOIDS ANY RECORD, WRIT, PROCESS, OR OTHER PROCEEDING, IN ANY COURT, OF THE UNITED STATES, WHEREBY ANY JUDGMENT IS REVERSED, MADE VOID, OR DOES NOT TAKE EFFECT; OR

WHOEVER ACKNOWLEDGES, OR PROCURES TO BE ACKNOWLED IN ANY SUCH COURT, ANY RECOGNIZANCE, BAIL, OR JUDGMENT, IN THE NAME OF ANY OTHER PERSON NOT PRIVY OR CONSENTING TO THE SAME —

SHALL BE FINED NOT MORE THAN $5,000 OR IMPRISONED NOT MORE THAN FIVE YEARS, OR BOTH.

18 USC 1621 PERJURY GENERALLY.

WHOEVER, HAVING TAKEN AN OATH BEFORE A COMPETENT TRIBUNAL, OFFICER, OR PERSON, IN ANY CASE IN WHICH A LAW OF THE UNITED STATES AUTHORIZES AN OATH TO BE ADMINISTERED, THAT HE WILL TESTIFY, DECLARE, DEPOSE, OR CERTIFY TRULY, OR THAT ANY WRITTEN TESTIMONY, DECLARATION, DEPOSITION, OR CERTIFICATE BY HIM SUBSCRIBED, IS TRUE, WILLFULLY AND CONTRARY TO SUCH OATH STATES OR SUBSCRIBES ANY MATERIAL MATTER WHICH HE DOES NOT BELIEVE TO BE TRUE, IS GUILTY OF PERJURY, AND SHALL, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED BY LAW, BE FINED NOT MORE THAN $2,000 OR IMPRISONED NOT MORE THAN FIVE YEARS, OR BOTH.

18 USC 2315. SALE OR RECEIPT OF STOLEN GOODS, SECURITIES, OR MONIES.

WHOEVER RECEIVES, CONCEALS, STORES, BARTERS, SELLS, OR DISPOSES OF ANY GOODS, WARES, OR MERCHANDISE SECURITIES, OR MONEY OF THE VALUE OF $5,000 OR MORE, OR PLEDGES OR ACCEPTS AS SECURITY FOR A LOAN ANY GOODS, WARES, OR MERCHANDISE, OR SECURITIES OF THE VALUE OF $500 OR MORE, MOVING AS, OR WHICH ARE A PART OF, OR WHICH CONSTITUTE INTERSTATE OR FOREIGN COMMERCE, KNOWING THE SAME TO HAVE BEEN STOLEN, UNLAWFULLY CONVERTED, OR TAKEN;

28 USC 1331 FEDERAL QUESTION: AMOUNT IN CONTROVERSY; COSTS

(a) THE DISTRICT COURTS SHALL HAVE ORIGINAL JURISDICTION OF ALL CIVIL ACTIONS WHEREIN THE MATTER IN CONTROVERSY EXCEEDS THE SUM OR VALUE OF $10,000, EXCLUSIVE OF INTEREST AND COSTS, AND ARISES UNDER THE CONSTITUTION, LAWS, OR TREATIES OF THE UNITED STATES.

(b) EXCEPT WHEN EXPRESS PROVISION THEREFOR IS OTHERWISE MADE IN A STATUTE OF THE UNITED STATES, WHERE THE PLAINTIFF IS FINALLY ADJUDGED TO BE ENTITLED TO RECOVER LESS THAN THE SUM OR VALUE OF $10,000, COMPUTED WITHOUT REGARD TO ANY SETOFF OR COUNTERCLAIM TO WHICH THE DEFENDANT MAY BE ADJUDGED TO BE ENTITLED, AND EXCLUSIVE OF INTERESTS AND COSTS, THE DISTRICT COURT MAY DENY COSTS TO THE PLAINTIFF AND, IN ADDITION, MAY IMPOSE COSTS ON THE PLAINTIFF. AS AMENDED JULY 25, 1958.

28 USC 1443 CIVIL RIGHTS CASES

ANY OF THE FOLLOWING CIVIL ACTIONS OR CRIMINAL PROSECUTIONS, COMMENCED IN A STATE COURT MAY BE REMOVED BY THE DEFENDANT TO THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT AND DIVISION EMBRACING THE PLACE WHEREIN IT IS PENDING:

(1) AGAINST ANY PERSON WHO IS DENIED OR CANNOT ENFORCE IN THE COURTS OF SUCH STATE A RIGHT UNDER ANY LAW PROVIDING FOR THE EQUAL CIVIL RIGHTS OF CITIZENS OF THE UNITED STATES, OR OF ALL PERSONS WITHIN THE JURISDICTION THEREOF:

(2) FOR ANY ACT UNDER COLOR OF AUTHORITY DERIVED FROM ANY LAW PROVIDING FOR EQUAL RIGHTS, OR FOR REFUSING TO DO ANY ACT ON THE GROUND THAT IT WOULD BE INCONSISTENT WITH SUCH LAW.

28 USC 1738 STATE AND TERRITORIAL STATUTES AND JUDICIAL PROCEEDINGS; FULL FAITH AND CREDIT.

THE ACTS OF THE LEGISLATURE OF ANY STATE, TERRITORY, OR POSSESSION OF THE UNITED STATES, OR COPIES THEREOF, SHALL BE AUTHENTICATED BY AFFIXING THE SEAL OF SUCH STATE, TERRITORY OR POSSESSION THERETO.

THE RECORDS AND JUDICIAL PROCEEDINGS OF ANY COURT OF ANY SUCH STATE, TERRITORY OR POSSESSION, OR COPIES THEREOF, SHALL BE PROVED OR ADMITTED IN OTHER COURTS WITHIN THE UNITED STATES AND ITS TERRITORIES AND POSSESSIONS BY THE ATTESTATION OF THE CLERK AND SEAL OF THE COURT ANNEXED, IF A SEAL EXISTS, TOGETHER WITH A CERTIFICATE OF A JUDGE OF THE COURT THAT THE SAID ATTESTATION IS IN PROPER FORM.

SUCH ACTS, RECORDS AND JUDICIAL PROCEEDINGS OR COPIES THEREOF, SO AUTHENTICATED, SHALL HAVE THE SAME FULL FAITH AND CREDIT IN EVERY COURT WITHIN THE UNITED STATES AND ITS TERRITORIES AND POSSESSIONS AS THEY HAVE BY LAW OR USAGE IN THE COURTS OF SUCH STATE, TERRITORY OR POSSESSION FROM WHICH THEY ARE TAKEN.

28 USC 1739 STATE AND TERRITORIAL NONJUDICIAL RECORDS; FULL FAITH AND CREDIT.

ALL NONJUDICIAL RECORDS OR BOOKS KEPT IN ANY PUBLIC OFFICE OF ANY STATE, TERRITORY, OR POSSESSION OF THE UNITED STATES, OR COPIES THEREOF, SHALL BE PROVED OR ADMITTED IN ANY COURT OR OFFICE IN ANY OTHER STATE, TERRITORY, OR POSSESSION BY THE ATTESTATION OF THE CUSTODIAN OF SUCH RECORDS OR BOOKS, AND THE SEAL OF HIS OFFICE ANNEXED, IF THERE BE A SEAL, TOGETHER WITH A CERTIFICATE OF A JUDGE OF A COURT OF RECORD OF THE COUNTY, PARISH, OR DISTRICT IN WHICH SUCH OFFICE MAY BE KEPT, OR OF THE GOVERNOR, OR SECRETARY OF STATE, THE CHANCELLOR OR

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KEEPER OF THE GREAT SEAL, OF THE STATE, TERRITORY, OR POSSESSION THAT THE SAID ATTESTATION IS IN DUE FORM AND BY THE PROPER OFFICERS.

IF THE CERTIFICATE IS GIVEN BY A JUDGE, IT SHALL BE FURTHER AUTHENTICATED BY THE CLERK OR PROTHONOTARY OF THE COURT, WHO SHALL CERTIFY, UNDER HIS HAND AND THE SEAL OF HIS OFFICE, THAT SUCH JUDGE IS DULY COMMISSIONED AND QUALIFIED; OR, IF GIVEN BY SUCH GOVERNOR, SECRETARY, CHANCELLOR, OR KEEPER OF THE GREAT SEAL, IT SHALL BE UNDER THE GREAT SEAL OF THE STATE, TERRITORY, OR POSSESSION IN WHICH IT IS MADE.

SUCH RECORDS OR BOOKS, OR COPIES THEREOF, SO AUTHENTICATED, SHALL HAVE THE SAME FULL FAITH AND CREDIT IN EVERY COURT AND OFFICE WITHIN THE UNITED STATES AND ITS TERRITORIES AND POSSESSIONS AS THEY HAVE BY LAW OR USAGE IN THE COURTS OR OFFICES OF THE STATE, TERRITORY, OR POSSESSION FROM WHICH THEY ARE TAKEN.

28 USC 1654. APPEARANCE PERSONALLY OR BY COUNSEL.

IN ALL COURTS OF THE UNITED STATES THE PARTIES MAY PLEAD AND CONDUCT THEIR OWN CASES PERSONALLY OR BY COUNSEL, AS, BY THE RULES OF SUCH COURTS, RESPECTIVELY, ARE PERMITTED TO MANAGE AND CONDUCT CAUSES THEREIN.

28 USC 2001 SALE OF REALTY GENERALLY.

(a) ANY RELATY OR INTEREST THEREIN SOLD UNDER ANY ORDER OR DECREE OF ANY COURT OF THE UNITED STATES SHALL BE SOLD AS A WHOLE OR IN SEPARATE PARCELS AT PUBLIC SALE AT THE COURTHOUSE OF THE COUNTY, PARISH, OR CITY IN WHICH THE GREATER PART OF THE PROPERTY IS LOCATED, OR UPON THE PREMISES OR SOME PARCEL THEREOF LOCATED THEREIN, AS THE COURT DIRECTS. SUCH SALE SHALL BE UPON SUCH TERMS AND CONDITIONS AS THE COURT DIRECTS.

PROPERTY IN THE POSSESSION OF A RECEIVER OR RECEIVERS APPOINTED BY ONE OR MORE DISTRICT COURTS SHALL BE SOLD AT PUBLIC SALE IN THE DISTRICT WHEREIN ANY SUCH RECEIVER WAS FIRST APPOINTED, AT THE COURTHOUSE OF THE COUNTY, PARISH, OR CITY SITUATED THEREIN IN WHICH THE GREATER PART OF THE PROPERTY IN SUCH DISTRICT IS LOCATED, OR ON THE PREMISES OR SOME PARCEL THEREOF LOCATED IN SUCH COUNTY, PARISH, OR CITY, AS SUCH COURT DIRECTS, UNLESS THE COURT ORDERS THE SALE OF THE PROPERTY OR ONE OR MORE PARCELS THEREOF IN ONE OR MORE ANCILLARY DISTRICTS.

(b) AFTER A HEARING, OF WHICH NOTICE TO ALL INTERESTED PARTIES SHALL BE GIVEN BY PUBLICATION OR OTHERWISE AS THE COURT DIRECTS, THE COURT MAY ORDER THE SALE OF SUCH REALTY OR INTEREST OR ANY PART THEREOF AT PRIVATE SALE FOR CASH OR OTHER CONSIDERATION AND UPON SUCH TERMS AND CONDITIONS AS THE COURT APPROVES, IF IT FINDS THAT THE BEST INTERESTS OF THE ESTATE WILL BE CONSERVED THEREBY. BEFORE CONFIRMATION OF ANY PRIVATE SALE, THE COURT SHALL APPOINT THREE DISINTERESTED PERSONS TO APPRAISE SUCH PROPERTY OR DIFFERENT GROUPS OF THREE APPRAISERS EACH TO APPRAISE PROPERTIES OF DIFFERENT CLASSES OR SITUATED IN DIFFERENT LOCALITIES. NO PRIVATE SALE SHALL BE CONFIRMED AT A PRICE LESS THAN TWO-THIRDS OF THE APPRAISED VALUE. BEFORE CONFIRMATION OF ANY PRIVATE SALE, THE TERMS THEREOF SHALL BE PUBLISHED IN SUCH NEWSPAPER OR NEWSPAPERS OF GENERAL CIRCULATION AS THE COURT DIRECTS AT LEAST TEN DAYS BEFORE CONFIRMATION. THE PRIVATE SALE SHALL NOT BE CONFIRMED IF A BONA FIDE OFFER IS

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MADE, UNDER CONDITIONS PRESCRIBED BY THE COURT, WHICH GUARANTEES AT LEAST A 10 PER CENTUM INCREASE OVER THE PRICE OFFERED IN THE PRIVATE SALE.
(c) THIS SECTION SHALL NOT APPLY TO SALES AND PROCEEDINGS UNDER TITLE 11 OR BY RECEIVERS OR CONSERVATORS OF BANKS APPOINTED BY THE COMPTROLLER OF THE CURRENCY. AS AMENDED MAY 24, 1949, c. 139, § 99, 63 Stat. 104.

28 USC 1655. LIEN ENFORCEMENT; ABSENT DEFENDANTS

IN AN ACTION IN A DISTRICT COURT TO ENFORCE ANY LIEN UPON OR CLAIM TO, OR TO REMOVE ANY INCUMBRANCE OR LIEN OR CLOUD UPON THE TITLE TO, REAL OR PERSONAL PROPERTY WITHIN THE DISTRICT, WHERE ANY DEFENDANT CANNOT BE SERVED WITHIN THE STATE, OR DOES NOT VOLUNTARILY APPEAR, THE COURT MAY ORDER THE ABSENT DEFENDANT TO APPEAR OR PLEAD BY A DAY CERTAIN.

SUCH ORDER SHALL BE SERVED ON THE ABSENT DEFENDANT personally if practicable, wherever found, and also UPON THE PERSON OR PERSONS IN POSSESSION OR CHARGE OF SUCH PROPERTY, IF ANY. WHERE PERSONAL SERVICE IS NOT PRACTICABLE, THE ORDER SHALL BE PUBLISHED AS THE COURT MAY DIRECT, NOT LESS THAN ONCE A WEEK FOR SIX CONSECUTIVE WEEKS.

IF AN ABSENT DEFENDANT DOES NOT APPEAR OR PLEAD WITHIN THE TIME ALLOWED, THE COURT MAY PROCEED AS IF THE ABSENT DEFENDANT HAD BEEN SERVED WITH PROCESS WITHIN THE STATE, BUT ANY ADJUDICATION SHALL AS REGARDS THE ABSENT DEFENDANT WITHOUT APPEARANCE, AFFECT ONLY THE PROPERTY WHICH IS THE SUBJECT OF THE ACTION. WHEN A PART OF THE PROPERTY IS WITHIN ANOTHER DISTRICT, BUT WITHIN THE SAME STATE, SUCH ACTION MAY BE BROUGHT IN EITHER DISTRICT.

ANY DEFENDANT NOT SO PERSONALLY NOTIFIED MAY, AT ANY TIME WITHIN ONE YEAR AFTER FINAL JUDGMENT, ENTER HIS APPEARANCE, AND THEREUPON THE COURT SHALL SET ASIDE THE JUDGMENT AND PERMIT SUCH DEFENDANT TO PLEAD ON PAYMENT OF SUCH COSTS AS THE COURT DEEMS JUST.

28 USC 2255. FEDERAL CUSTODY; REMEDIES ON MOTION ATTACKING SENTENCE.

A PRISONER IN CUSTODY UNDER SENTENCE OF A COURT ESTABLISHED BY ACT OF CONGRESS CLAIMING THE RIGHT TO BE RELEASED UPON THE GROUND THAT THE SENTENCE WAS IMPOSED IN VIOLATION OF THE CONSTITUTION OR LAWS OF THE UNITED STATES, OR THAT THE COURT WAS WITHOUT JURISDICTION TO IMPOSE SUCH SENTENCE, OR THAT THE SENTENCE WAS IN EXCESS OF THE MAXIMUM AUTHORIZED BY LAW, OR IS OTHERWISE SUBJECT TO COLLATERAL ATTACK, MAY MOVE THE COURT WHICH IMPOSED THE SENTENCE TO VACATE, SET ASIDE OR CORRECT THE SENTENCE.

A MOTION FOR SUCH RELIEF MAY BE MADE AT ANY TIME.

UNLESS THE MOTION AND THE FILES AND RECORDS OF THE CASE CONCLUSIVELY SHOW THAT THE PRISONER IS ENTITLED TO NO RELIEF, THE COURT SHALL CAUSE NOTICE THEREOF TO BE SERVED UPON THE UNITED STATES ATTORNEY, GRANT A PROMPT HEARING THEREON, DETERMINE THE ISSUES AND MAKE FINDINGS OF FACT AND CONCLUSIONS OF LAW WITH RESPECT THERETO. IF THE COURT FINDS THAT THE JUDGMENT WAS RENDERED WITHOUT JURISDICTION, OR THAT THE SENTENCE IMPOSED WAS NOT AUTHORIZED BY LAW OR OTHERWISE OPEN TO COLLATERAL ATTACK, OR THAT THERE HAS BEEN SUCH A DENIAL OR INFRINGEMENT OF THE CONSTITUTIONAL RIGHTS OF THE PRISONER AS TO RENDER THE JUDGMENT VULNERABLE TO COLLATERAL ATTACK, THE COURT SHALL VACATE AND SET THE JUDGMENT ASIDE AND SHALL DISCHARGE THE PRISONER OR RESENTENCE HIM OR GRANT A NEW TRIAL OR CORRECT THE SENTENCE AS MAY APPEAR APPROPRIATE.

42 USC 1981 EQUAL RIGHTS UNDER THE LAW.

All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.

42 USC 1982. PROPERTY RIGHTS OF CITIZENS.

All citizens of the United States shall have the same right, in every State and Territory, as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold and convey real and personal property.

42 USC 1983. CIVIL ACTION FOR DEPRIVATION OF RIGHTS.

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person with the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

42 USC 1984. SAME; REVIEW OF PROCEEDINGS.

All cases arising under the provisions of this act in the courts of the United States shall be reviewable by the Supreme Court of the United States, without regard to the sum in controversy, under the same provisions and regulations as are provided by law for the review of other causes in said court.

42 USC 1985. CONSPIRACY TO INTERFERE WITH CIVIL RIGHTS.

(1) PREVENTING OFFICER FROM PERFORMING DUTIES.

If two or more persons in any State or Territory conspire to prevent, by force, intimidation, or threat, any person from accepting or holding any office, trust, or place of confidence under the United States, or from discharging any duties thereof; or to induce by like means any officer of the United States to leave any State, district, or place, where his duties as an officer are required to be performed, or to injure him in his person or property on account of his lawful discharge of the duties of his office, or while engaged in the lawful discharge thereof, or to injure his property so as to molest, interrupt, hinder, or impede him in the discharge of his official duties;

(2) OBSTRUCTING JUSTICE; INTIMIDATING PARTY, WITNESS, OR JUROR.

If two or more persons in any State or Territory conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, presentment, or indictment of any grand or petit juror in any such court, or to injure such juror in his person or property on account of any verdict, presentment, or indictment lawfully assented to by him, or of his being or having been such juror; or if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws;

42 USC 1985

(3) DEPRIVING PERSONS OF RIGHTS OR PRIVILEGES.

If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President, or as a Member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages, occasioned by such injury or deprivation, against any one or more of the conspirators.

42 USC 1986 SAME; ACTION FOR NEGLECT TO PREVENT.

Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in section 1985 of this title, are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act be

committed, shall be liable to the party injured, or his legal representatives, for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action; and if the death of any party be caused by any such wrongful act and neglect, the legal representatives of the deceased shall have such action therefor, and may recover not exceeding $5,000 damages therein, for the benefit of the widow of the deceased, if there be one, and if there be no widow, then for the benefit of the next of kin of the deceased. But no action under the provisions of this section shall be sustained which is not commenced within one year after the cause of action has accrued.

42 USC 1988. PROCEEDINGS IN VINDICATION OF CIVIL RIGHTS.

The jurisdiction in civil and criminal matters conferred on the district courts by the provisions of this chapter and Title 18, for the protection of all persons in the United States in their civil rights, and for their vindiction, shall be exercised and enforced in conformity with the laws of the United States, so far as such laws are suitable to carry the same into effect; but in all cases where they are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies and punish offenses against law, the common law, as modified and changed by the constitution and statutes of the state wherein the court having jurisdiction of such civil or criminal cause is held, so far as the same is not inconsistent with the Constitution and laws of the United States, shall be extended to and govern the said courts in the trial and disposition of the cause, and, if it is of a criminal nature, in the infliction of punishment on the party found guilty

UNITED STATES CONSTITUTION

ARTICLE IV,

SECTION 1. Full faith and credit shall be given in each state to the public acts, records and judicial proceedings of every other state. And the Congress may by general laws prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

SECTION 2. The citizens of each state shall be entitled to all privileges and immunities of citizens of the several states.

SECTION 4. The United States shall guarantee to every state in the Union a republican form of government; and shall protect each of them against invasion, and, on application of the legislature, or of the executive (when the legislature cannot be convened), against domestic violence.

AMENDMENTS TO THE CONSTITUTION

AMENDMENT IV.

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.

AMENDMENT V.

No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service,

in time of war and public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be witness against himself; nor be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use without just compensation.

AMENDMENT VI.

In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defense.

AMENDMENT VII.

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any court in the United States than according to the rules of the common law.

AMENDMENT IX.

The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

AMENDMENT XIV.

SECTION 1. All persons born or naturalised in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

NORTHWEST ORDINANCE 1787
ACT OF CONGRESS, JULY 13, 1787

SECTION 14. It is hereby ordained and declared, by the authority aforesaid, that the following articles shall be considered as articles of compact, between the original States and the people and States in the said territory, and forever remain unalterable, unless by common consent, to wit:

ART. I. No person demeaning himself in a peaceable and orderly manner shall ever be molested on account of his mode of worship, or religious sentiments in the said territories.

ART. II. The inhabitants of the said territory shall always be entitled to the benefits of the writs of habeas corpus, and of the trial by jury; of a proportionate representation of the people in the Legislature, and of judicial proceedings according to the course of the common law. All persons shall be bailable, unless for capital offenses, where the proof shall be evident or the presumption great. All fines shall be moderate, and no cruel or unusual punishments shall be inflicted. No man shall be deprived of his liberty or property, but by the judgment of his peers, or the law of the land, and should the

public exigencies make it necessary, for the common preservation, to take any person's property, or to demand his particular services, full compensation shall be made for the same. And, in the just preservation of rights and property, it is understood and declared that no law ought ever to be made or have force in the said territory, that shall, in any manner whatever, interfere with or affect private contracts, or engagements bona fide and without fraud previously formed.

POSTAL MANUAL As Revised to February 17, 1967.

U. S. POST OFFICE DEPARTMENT

PART 154.1 DELIVERY TO PERSONS.

The addressee may control delivery of his mail. In the absence of a contrary order, the mail is delivered as addressed. Mail addressed to several persons may be delivered to any one of them. The addressee may refuse to accept a piece of mail at the time it is offered for delivery. Also, he may request his postmaster in writing to withhold from delivery for a period not to exceed two years specifically described items of foreign printed matter or of any obscene, lewd, lascivious, or indecent matter. After delivery, he may mark a piece of mail REFUSED and return it unopened to the mail, EXCEPT registered, insured, certified and c.o.d. mail which may not be returned after delivery has been affected. Refused matter; including mail withheld from delivery in accordance with the addressee's request, will be treated as undeliverable as provided in Part 158. Where a person claiming to be the addressee of certain mail is unknown to the postmaster, the mail may be withheld pending identification of the claimant.

UNITED STATES CONSTITUTION

ARTICLE VI.

All debts contracted and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the confederation.

This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land, and the judges in every state shall be bound thereby, anything in the Constitution or laws of any state to the contrary notwithstanding.

The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation to support this Constitution, but no religious test shall ever be required as a qualification to any office or public trust under the United States.

UNITED STATES CONSTITUTION

AMENDMENT V.

MINNESOTA PRACTICE METHODS BLACK-MOODY-PATTON

SEC. 103 MATTERS WHICH THE ABSTRACT DOES NOT COVER.

THE MOST COMPLETE AND ACCURATE ABSTRACT WILL NOT SHOW THE FOLLOWING MATTERS WHICH ARE ESSENTIAL TO A GOOD AND UNASSILABLE TITLE:

1. THE COMPETENCY OF THE PARTIES TO THE INSTRUMENTS IN THE CHAIN OF TITLE, ETC.

2. WHETHER ANY OF SUCH INSTRUMENTS WERE OBTAINED BY FRAUD OR DURESS, OR MADE FOR AN ILLEGAL PURPOSE, ETC.

3. WHETHER SUCH; INSTRUMENTS WERE EVEN DELIVERED.

5. WHETHER ANY INSTRUMENT HAS BEEN FORGED OR FRAUDULENTLY ALTERED.

7. UNRECORDED RIGHTS OF PERSONS IN POSSESSION, WHOSE POSSESSION ALONE IS CONSIDERED ADEQUATE NOTICE OF THEIR RIGHTS. (SEE PATTON TITLES SEC. 338, 14, 366).

13. WHETHER THE PREMISES INVOLVED DO OR DO NOT CONSTITUTE THE HOMESTEAD OF THE OWNER.

NOT THAT THERE MAY BE OTHER MATTERS ESSENTIAL TO AN UNASSAILABLE TITLE WHICH AN ABSTRACT DOES NOT OR CANNOT SHOW, BUT THE FOREGOING ARE THE MOST IMPORTANT.

222 MINN. 221 Cysowski v. Steingraber.

Homestead in city, town or village

WHERE AREA OF PROPERTY IN ST. PAUL CLAIMED TO BE EXEMPT AS A HOMESTEAD FELL WITHIN THE ONE-THIRD OF AN ACRE PRESCRIBED FOR CITIES OVER 5,000 POPULATION, AND A PORTION THEREOF WAS ACTUALLY OCCUPIED AS A HOME BY OWNER, ALL OF SUCH PROPERTY AND THE STRUCTURES THEREON WERE EXEMPT, REGARDLESS OF THE NUMBER OF TYPE OF RENTAL UNITES THEREON OR THE VALUE THEREOF. M.S.A. CHAP. 510.01 to 510.09 510.02.

12 MINN.153 "...PLAINTIFFS WERE IN POSSESSION AT THE TIME OF THE COMMENCEMENT OF THE ACTION".

THE ACTUAL POSSESSION OF THE PREMISES AT THE TIME OF THE COMMENCEMENT OF THE ACTION WAS IN A TENANT, WHO WENT INTO POSSESSION AS THE TENANT OF THE JOINT OWNERS, OF WHOM THE PLAINTIFFS WERE TWO, AND WHO HAD REMAINED EVER SINCE SUCH ENTRY CONTINUOUSLY IN POSSESSION.

THE ATTEMPTED ATTORNMENT OF THE TENANT TO THE DEFENDANT WAS VOID FOR THE REASON THAT A TENANT CANNOT ATTORN TO A STRANGER WITHOUT FIRST SURRENDERING TO HIS LESSOR.

THE SAID ATTEMPTED ATTORNMENT WAS VOID BY REASON OF THE TWOFOLD FIDUCIARY RELATION OF THE DEFENDANT TO THE PLAINTIFFS, TO-WIT, TENANCY IN COMMON AND AGENCY. 5 Johns Ch. 407; 1 Johns Ch. 394; 4 Johns Ch. 118.

ATTORNMENTS ARE RENDERED UNNECESSARY, EVEN IN ENGLAND, BY STATUTE, AND IN THE UNITED STATES THEY ARE ABOLISHED; BUT AN ATTORNMENT TO A MORTGAGEE AFTER FORFEITURE OR BREACH OF THE MORTGAGE WAS ALWAYS VALID.

145 MINN. 104 Beigler v. Chamberlin (1920)

Attachment of homestead by creditor without right to lien.

1. A creditor, seeking a mere money judgment for a debt which, under no statutory or constitutional provision, is, or may be adjudged, a lien upon the homestead of the defendant, cannot, by procuring an attachment to be issued in the action and a levy to be made upon such homestead, acquire a lien thereon, so as to give the right of redemption.

Defendant not estopped by failure to move for vacation of attachment.

2. Defendant's failure to move to vacate the attachment, granted on the ground that he was a nonresident, and his failure to move to set aside the levy do not conclude him either on the question of residency or of homestead right, and he may still assert, in a proper action, his homestead right in the property upon which the levy was made, and have the levy and all proceedings taken thereunder adjudged null and void.

AT 106 :

...Real estate which cannot be seized upon execution CANNOT be attached so as to give a lien thereon. Fletcher v. Tuttle, 97 Me. 491, 54 Atl. 1110. No creditor can redeem from an execution sale, unless he has a lien on the property sought to be redeemed. The only lien asserted by plaintiff was by virtue of the levy made under her attachment. If the land was then the homestead of the defendant in the action, it was exempt from seizure and no lien was acquired by the levy under the writ. This is settled law. It was not necessary to protest the levy. The defendant could ignore it and ignore a sale upon an execution on any judgment that could be entered on the findings that were made in the case, and afterwards assert his homestead right as he has done in this answer. "The statute gives the exemption absolutely, and without making the right to it dependent upon any affirmative action upon the part of the person claiming it towards an officer levying or about to levy upon it. Ferguson v. Kumler, 25 Minn. 183.

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239 MINN. 550 (1953) Wilson v. First National Bank of Mankato

1. RENTALS DERIVED FROM HOMESTEAD PROPERTY, PART OF WHICH IS OCCUPIED BY THE OWNER THEREOF, ARE EXEMPT FROM PROCESS UNDER M.S.A. 510.01.

2. ENACTMENT OF SEC. 510.07 which PROVIDES FOR CONTINUANCE OF HOMESTEAD RIGHTS DURING OWNERS TEMPORARY ABSENCE FROM HOMESTEAD PROPERTY, MANIFESTS LEGISLATIVE INTENT THAT ACTUAL OCCUPANCY MAY BE TEMPORARILY SUSPENDED WITHOUT LOSS OF EXEMPTION RIGHTS.

3. While SEC. 550.37 SPECIFICALLY DEFINES CLASSES OF PERSONAL PROPERTY EXEMPT FROM PROCESS, FACT THAT NO REFERENCE IS MADE THEREIN TO INCOME DERIVED FROM HOMESTEAD RENTALS DOES NOT MANIFEST LEGISLATIVE INTENT THAT SUCH RENTALS ARE NOT EXEMPT FROM PROCESS UNDER SEC. 510.01.

232 MINN. 250 Sisco v. Paulson

1. SINCE THE OWNER MAY SELL AND CONVEY THE HOMESTEAD WITHOUT SUBJECTING IT TO ANY JUDGMENT OR DEBT FROM WHICH IT WAS EXEMPT IN HIS HANDS (M.S.A. 510.07), THE GRANTEE OF THE HOMESTEAD PROPERTY ACQUIRES TITLE TO THE PROPERTY EXEMPT OR IMMUNE FROM THE CLAIMS OF GRANTOR'S CREDITORS.

AT 251.

SO FAR AS EXEMPT PROPERTY IS CONCERNED, THERE ARE NO CREDITORS WITHIN THE MEANING OF THE STATUTE.

24 AM. JUR. FRAUDULENT CONVEYANCE SEC. 109.

THIS INCLUDES HOMESTEAD PROPERTY. 27 MINN. 156, 89 MINN. 247, 116 MINN. 483, 134 MINN. 400, 222 MINN. 221.

40 CAL RPTR. 518 (1964) Hause Jr. v. Lamie et al

Forcible Entry and Detainer Key 32.
Judgment key 747(6)

1. In action of unlawful detainer, court is without jurisdiction to try any issue except that involving possession of real property and judgment rendered by such court in such action cannot affect title to real property, nor is any finding of fact by the court res adjudicata between parties in subsequent proceeding where issue involved is title to the property.

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4 OKLA. 521 (1896) Oklahoma City (Defendant) v. Hill (Plaintiff).

1. FORCIBLE ENTRY AND DETAINER —Pleading.

In a forcible entry and detainer case all defenses may be interposed under a general denial and it is not reversible error to strike from the answer a special defense, even though the special paragraph might plead a good defense.

4. ...HELD, that the plaintiffs may maintain their action of forcible entry and detainer... he had no right to deprive the plaintiffs, by force, of the possession of the building: and it is no defense for the city to say that it was not a party to such dispossession, when its officers stood by and saw and took advantage of these acts of the sheriff.

5. SPECIAL QUESTIONS—Right to Have Submitted. A party has a right to submit to the jury special questions of fact, which are within the issues in the case, and a refusal to submit such questions to the jury is material error.

AT
PAGE 531.

The doctrine of our statute is thus stated by Mr. Chief Justice Horton, of the supreme court of Kansas, in the case of Peyton v. Peyton, 9 Pac. 479:

"It was unnecessary for the plaintiff to state that she was the legal and equitable owner of the premises. It is only necessary for her to allege that she had the actual and peaceable possession thereof."

This doctrine obtains in the state of Nebraska, under a statute similar to ours. There, in the case of Brown v. Feagins, 55 Northwestern, 1048, it is held:

"An action for the forcible detention of real property may be maintained by one whose complete possession thereof has been ended by the wrongful entry of another, even though such entry was made under claim of a paramount title."

This doctrine is also maintained by the supreme court of the United States in the case of Iron Mountain and Helena Railroad v. Johnson, 119 U.S. 608. This was an action of forcible entry and detainer brought in the U.S. district court in Arkansas, and taken on appeal to the supreme court of the United States

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392 P. 2d 827 (Wash. 1964)

Landlord and Tenant Key 291(1), 291(6½)

SUPERIOR COURT'S JURISDICTION IN UNLAWFUL DETAINER ACTION ARISES OUT OF SERVICE OF STATUTORY SUMMONS, NOT STATUTORY NOTICES TO QUIT, PAY RENT OR VACATE.

SUPERIOR COURT SITS AS A SPECIAL STATUTORY TRIBUNAL IN UNLAWFUL DETAINER ACTION AND IS LIMITED TO DECIDING PRIMARY ISSUE OF RIGHT TO POSSESSION, TOGETHER WITH STATUTORILY DESIGNATED INCIDENTS SUCH AS RENT, RESTITUTION OR DAMAGES.

27 ARK. 50 (1871) Simmons v. Robertson.

LANDLORD AND TENANT — TENANT CANNOT DISPUTE TITLE OF.

A TENANT, IN POSSESSION, IS NOT AT LIBERTY TO QUESTION THE TITLE OF THE PERSON UNDER WHOM HE HOLDS, OR ATTORN TO A THIRD PERSON.

SAME — CANNOT SET UP HOSTILE TITLE. — A TENANT, WHILE THE RELATION OF LANDLORD AND TENANT EXISTS, CANNOT RENT FROM ONE WHO HAS ACQUIRED A TITLE HOSTILE TO THAT OF HIS LANDLORD, THOUGH IT BE A BETTER TITLE.

83 S. CT. 745 (1963) Townsend v. Sain.

7. Habeas Corpus key 90

Term "issues of fact" as used in relation to power and duty of federal judges to hold evidentiary hearings on habeas corpus meant basic, primary or historical facts; facts in sense of recital of external events and credibility of their narrators, and did not include mixed questions of fact and law requiring application of legal standard to historical-fact determinations. 28 U.S.C.A. ch. 2243.

9. Habeas Corpus Key 45.2(2)

Function of federal habeas corpus is to test by way of original civil proceeding, independent of normal channels of review of criminal judgments, the very gravest allegations, and state prisoners are entitled to relief only on proving that their detention violates the fundamental liberties of the person, safeguarded against state action by federal Constitution, 28 U.S.C.A. ch. 2243.

10. Habeas Corpus Key 45.2(2)

Opportunity for redress against detention in violation of fundamental liberties of person,

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safeguarded against state action by federal Constitution, though such opportunity presupposes opportunity to be heard, to argue and present evidence, must never be totally foreclosed.

28 U.S.C.A. Chapters 2243, 2254.

11. Habeas Corpus Key 90

Power of inquiry on federal habeas corpus is plenary, and where applicant alleges facts which, if proved, would entitle him to relief, federal court to which application is made has power to receive evidence and try facts anew. 28 U.S.C.A. ch. 2243.

13. Habeas Corpus Key 90

Federal court must grant evidentiary hearing to habeas corpus applicant if (1) merits of factual dispute were not resolved in state hearing;

(2) state factual determination is not fairly supported by record as a whole;

(3) fact finding procedure in state court was not adequate to afford full and fair hearing;

(4) there is substantial allegation of newly discovered evidence;

(5) material facts were not adequately developed at state court hearing; or

(6) for any reason it appears that state trier of fact did not afford applicant full and fair fact hearing. 28 U.S.C.A. Ch. 2243.

14. Habeas Corpus Key 90

If no express findings of fact have been made by state court, federal district court on habeas corpus must initially determine whether state court impliedly found material facts; and no relevant findings were made unless state court decided on the merits the constitutional claim tendered by defendant. 28 U.S.C.A. Ch. 2243.

29. Habeas Corpus Key 90

Duty of federal court on habeas corpus to try facts anew exists in every case in which state court did not after full hearing reliably find relevant facts. 28 U.S.C.A. Chap. 2243.

32. Habeas Corpus Key 90

District judge on habeas corpus may not defer to state court's findings of law but must apply applicable federal law to state court fact findings independently. 28 U.S.C.A. Ch. 2243.

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83 S.Ct. 1068 (1963) SANDERS vs. U. S.

EVEN IF SAME GROUND WAS REJECTED ON MERITS ON PRIOR APPLICATION FOR FEDERAL COLLATERAL RELIEF, IT IS OPEN TO APPLICANT TO SHOW THAT ENDS OF JUSTICE WOULD BE SERVED BY PERMITTING REDETERMINATION OF THE GROUND, BUT BURDEN IS ON APPLICANT SO TO SHOW.

NO MATTER HOW MANY PRIOR APPLICATIONS FOR FEDERAL COLLATERAL RELIEF A PRISONER HAS MADE, IF DIFFERENT GROUND IS PRESENTED BY NEW APPLICATION OR IF SAME GROUND WAS NOT ADJUDICATED ON MERITS, CONSIDERATION OF MERITS OF NEW APPLICATION CAN BE AVOIDED ONLY IF THERE HAS BEEN ABUSE OF WRIT OR MOTION REMEDY, AND THIS THE GOVERNMENT HAS THE BURDEN OF PLEADING.

224 F.Supp. 252 (1963 D.C. La) Ward v. Louisiana Wild Life & Fisheries Comm.

Judges Key 24.

A FEDERAL DISTRICT JUDGE IS MOST RELUCTANT TO REVERSE OR CHANGE A RULING OR ORDER OF ANOTHER DISTRICT JUDGE SITTING ON THE SAME CASE IN THE SAME COURT AND WILL DO SO ONLY FOR THE MOST COMPELLING REASONS.

A FEDERAL DISTRICT JUDGE HAS THE POWER AND THE AUTHORITY TO OVERRULE A PREVIOUS DECISION OF A PRIOR JUDGE SITTING ON THE SAME CASE IN THE SAME COURT.

224 F. Supp. 87 affirmed 324 F 2d 499 Crider v. Zurich Insurance Company.

2. Judgment Key 15.

JUDGMENT IS VOID, WHERE RECORD DISCLOSES LACK OF JURISDICTION.

3. Judgment Key 486(1)

PARTY OR HIS PRIVIES MAY ASSAIL VOID JUDGMENT.

92 N.W. 2d 569 (Iowa 1958) Halverson v. Hageman

2. Pleadings Key 182

ALLEGATIONS OF NEW MATTER IN ANSWER, TO WHICH NO REPLY WAS FILED, WOULD BE DEEMED ADMITTED.

3. Judgment Key 153(1)

IF DEFAULT JUDGMENT WAS VOID, DEFENDANT WOULD NOT BE REQUIRED TO ATTACK JUDGMENT UPON SUCH GROUND WITHIN ONE YEAR AFTER ITS RENDITION, AND COMPLIANCE WITH RULES REQUIRING FILING PETITION TO VACATE JUDGMENT WITHIN ONE YEAR AFTER RENDITION OF JUDGMENT WOULD NOT BE ESSENTIAL. 58 I.C.A. Rules 252, 253.

16. Judgment Key 217

PROCEEDING TO SET ASIDE JUDGMENT AS VOID IS IN EFFECT AN SEPARATE ACTION, AND MAY BE BROUGHT AS A SEPARATE ACTION, BUT WHETHER PROCEEDING IS DOCKETED IN ORIGINAL ACTION OR SEPARATELY IS A MATTER OF FORM, NOT OF SUBSTANCE, AND IS NOT CONTROLLING WITH RESPECT TO WHETHER DECISION THEREON IS A FINAL JUDGMENT.

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97 U.S. 444 (1878) Settlemier v. Sullivan.

In EJECTMENT FOR LANDS IN OREGON, THE DEFENDANT CLAIMED TITLE UNDER A SHERIFF'S DEED, PURSUANT TO A SALE OF THEM UNDER EXECUTION SUED OUT UPON A JUDGMENT BY DEFAULT RENDERED IN 1861 AGAINST A. IN THE STATE COURT. A CERTIFIED TRANSCRIPT OF THE JUDGMENT RECORD, CONSISTING AS REQUIRED BY THE STATUTE, OF A COPY OF THE COMPLAINT AND NOTICE, WITH PROOF OF SERVICE, AND A COPY OF THE JUDGMENT, WAS PUT IN EVIDENCE. THE STATUTE ALSO REQUIRED THAT IN ACTIONS IN PERSONAM SERVICE SHOULD BE MADE BY THE SHERIFF'S DELIVERING TO THE DEFENDANT PERSONALLY, OR, IF HE COULD NOT BE FOUND, TO SOME WHITE PERSON OF HIS FAMILY ABOVE THE AGE OF FOURTEEN YEARS, AT HIS DWELLING HOUSE OR USUAL PLACE OF ABODE, A COPY OF THE COMPLAINT AND NOTICE TO ANSWER. THE SUIT AGAINST A. WAS FOR THE RECOVERY OF MONEY, AND THE SHERIFF'S RETURN SHOWED THAT SERVICE WAS MADE "BY DELIVERING TO THE WIFE OF A., A WHITE WOMAN OVER FOURTEEN YEARS OF AGE, AT THE USUAL PLACE OF ABODE" A COPY OF THE COMPLAINT AND NOTICE; BUT IT CONTAINED NO STATEMENT THAT A. COULD NOT BE FOUND. AT THE ENSUING TERM, JUDGMENT WAS RENDERED AGAINST HIM, WITH A RECITAL THAT THE "DEFENDANT, ALTHOUGH DULY SERVED WITH PROCESS, CAME NOT, BUT MADE DEFAULT". HELD,

1. THAT THE COURT, BY SUCH SERVICE, ACQUIRED NO JURISDICTION OVER THE PERSON OF A., AND ITS JUDGMENT WAS VOID.

2. THAT SUCH SUBSTITUTED SERVICE, IF EVER SUFFICIENT FOR THE PURPOSES OF JURISDICTION, CAN ONLY BE MADE WHERE THE CONDITION UPON WHICH IT IS PERMISSIBLE IS SHOWN TO EXIST.

3. THAT THE INABILITY OF THE SHERIFF TO FIND A., WAS NOT TO BE INFERRED, BUT TO BE AFFIRMATIVELY STATED IN HIS RETURN.

4. THAT THE SAID RECITAL IS NOT EVIDENCE OF DUE SERVICE, BUT MUST BE READ IN CONNECTION WITH THAT PART OF THE RECORD WHICH SETS FORTH, AS PRESCRIBED BY STATUTE, THE PROOF OF SERVICE.

5. THAT SUCH PROOF MUST PREVAIL OVER THE RECITAL, AS THE LATTER, IN THE ABSENCE OF AN AVERMENT TO THE CONTRARY, THE RECORD BEING COMPLETE, CAN ONLY BE CONSIDERED AS REFERRING TO THE FORMER.

ERROR to the Circuit Court of the United States for the District of Oregon.

THIS WAS AN ACTION FOR THE POSSESSION OF CERTAIN LANDS IN THE STATE OF OREGON. THE PLAINTIFF ASSERTED TITLE TO THEM UNDER A PATENT OF THE UNITED STATES, ISSUED, IN 1875, TO ONE DURCHARME AND WIFE, A PREVIOUS CONVEYANCE BY THEM TO ONE MAGERS, AND A DEED BY THE LATTER AND WIFE IN 1877.

THE DEFENDANT CLAIMED TO HAVE ACQUIRED THE TITLE TO THE PREMISES BY A SHERIFF'S DEED, MADE IN 1862, ON A SALE OF THE PROPERTY UNDER EXECUTION, UPON A JUDGMENT RECOVERED BY ONE WALKER AGAINST MAGERS IN ONE OF THE COURTS OF OREGON. THE CASE TURNED UPON THE VALIDITY OF THIS JUDGMENT.

AT PAGE 447.

NO THEORETICAL UNITY OF HUSBAND AND WIFE CAN MAKE SERVICE UPON ONE EQUIVALENT TO SERVICE UPON THE OTHER. PERSONAL CITATION TO THE DEFENDANT, OR HIS VOLUNTARY APPEARANCE, IS THE ESSENTIAL PRELIMINARY TO A PURELY PERSONAL JUDGMENT.

THE INABILITY OF THE OFFICER TO FIND THE DEFENDANT WAS NOT A FACT TO BE INFERRED, BUT A FACT TO BE AFFIRMATIVELY STATED IN HIS RETURN. THE SUBSTITUTED SERVICE IN ACTIONS PURELY IN PERSONAM WAS A DEPARTURE FROM THE RULE OF THE COMMON LAW, AND THE AUTHORITY FOR IT, IF IT COULD BE ALLOWED AT ALL, MUST HAVE BEEN STRICTLY FOLLOWED.

SUCH WE FIND TO BE THE RULING OF THE SUPREME COURT OF OREGON. IN TRULLENGER V. TODD (5 Oreg. 39), JUDGMENT WAS ENTERED BY DEFAULT FOR WANT OF AN ANSWER BY THE CLERK, IN VACATION, UNDER THE ACT OF 1868, UPON A CERTIFICATE OF THE SHERIFF THAT HE HAD SERVED THE SUMMONS UPON THE DEFENDANT "BY DELIVERING

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A COPY THEREOF TO A PERSON OF THE FAMILY ABOVE THE AGE OF FOURTEEN YEARS, AT THE DWELLING HOUSE OR PLACE OF ABODE OF THE DEFENDANT;" AND THE COURT HELD THE CERTIFICATE INSUFFICIENT TO AUTHORIZE THE ENTRY OF JUDGMENT IN NOT CONTAINING THE FACT THAT THE DEFENDANT COULD NOT BE FOUND. THE STATUTE, SO FAR AS THE MANNER OF SERVICE WAS CONCERNED, WAS SIMILAR TO THAT OF 1861, A SOMMONS BEING SUBSTITUTED FOR THE NOTICE. "THE STATUTE," SAID THE COURT, " IN PROVIDING HOW SERVICE SHALL BE MADE, EVIDENTLY IMPLIES THAT WHEN A SUMMONS IS PLACED IN THE HANDS OF AN OFFICER FOR SERVICE, THAT HE WILL USE ORDINARY DILIGENCE, AT LEAST, TO FIND THE PARTY AGAINST WHOM THE SUMMONS IS ISSUED, IN ORDER THAT HE MAY MAKE PERSONAL SERVICE UPON HIM; BUT AFTER USING ORDINARY DILIGENCE, IF HE SHOULD FAIL TO FIND SUCH PARTY, CONSTRUCTIVE SERVICE MAY BE MADE; AND WHEN SUCH SERVICE IS MADE, THE CERTIFICATE SHOULD CONTAIN THE FACT THAT THE PARTY COULD NOT BE FOUND". THE COURT HAVING THUS HELD THE JUDGMENT VOID, THE ONLY QUESTION LEFT FOR ITS DETERMINATION WAS WHETHER IT COULD ENTERTAIN AN APPEAL FROM IT, AS A VOID JUDGMENT COULD BE DISREGARDED AND TREATED AS A NULLITY WHENEVER ANY RIGHT WAS CLAIMED UNDER IT, WHETHER SET ASIDE OR NOT. IT MAINTAINED THE APPEAL SOLELY FOR THE PURPOSE OF REVERSING THE JUDGMENT AND THUS PURGING ITS RECORDS.

92 NW 2d 569 Iowa
Judgment key 217

A PROCEEDING TO SET ASIDE A VOID JUDGMENT MAY BE DOCKETED IN THE ORIGINAL ACTION OR IN A SEPARATE ACTION AS THAT IS A MATTER OF FORM AND NOT OF SUBSTANCE AND IS NOT THEREFORE CONTROLLING.

75 So. 2d 850 (La. 1954) Smith v. Taylor.
1. Judgment Key 33

WHERE IT APPEARED THAT NOTE HAD NOT MATURED PRIOR TO TIME THAT CITATION WAS WAIVED AND JUDGMENT CONFESSED, JUDGMENT AND EXECUTION THEREUNDER WERE NULLITIES AND EXECUTION DID NOT AFFECT TITLE TO PROPERTY WHICH PUPCHASER LATER BOUGHT FROM DEFENDANT. CODE PRAC. ART. 612; Const. 1921, art. 7, § 44.

2. Adverse Possession 71(2)

PRESCRIPTION DOES NOT APPLY TO AN ABSOLUTE NULLITY.

3. Adverse Possession Key 74

PRESCRIPTION: WHERE JUDGMENT WAS A COMPLETE NULLITY, THOSE WHO TOOK REAL ESTATE UNDER EXECUTION COULD NOT PLEAD PRESCRIPTION AGAINST PERSON WHO SUBSEQUENTLY BOUGHT FROM DEFENDANT. LSA-C. C. arts 11, 12.

127 F.S. 485 (1954 NY)

6. Criminal Law Key 991 (2)

A JUDGMENT VOID AB INITIO, DOES NOT BECOME VITALIZED BY MERE PASSAGE OF TIME, AND IF VOID WHEN ENTERED IT IS VOID FOR ALL TIMES.

8. Criminal Law Key 997 (12)

LACHES DOES NOT CONSTITUTE AN ESTOPPEL OR DEFENSE TO PROCEEDING BY ERROR CORAM NOBIS. 28 USC 2255.

9. Constitutional Law Key 82

CONSTITUTIONAL SAFEGUARDS APPLY TO ALL, THE GUILTY AS WELL AS THE INNOCENT.

10. Criminal Law Key 991 (2)

ONE IMPRISONED UNDER A VOID JUDGMENT IS, EVEN IF GUILTY, AS IMPROPERLY DEPRIVED OF HIS LIBERTY AS THE MOST INNOCENT PERSON.

11. Criminal Law Key 308,997 (15)

THE LAW PRESUMES INNOCENCE UNTIL A VALID JUDGMENT OF CONVICTION IS ENTERED, AND IF PETITIONER FOR WRIT OF ERROR CORAM NOBIS CAN PROVE THAT NO VALID JUDGMENT OF GUILT WAS RENDERED, THE PRESUMPTION OBVIATES ANY NECESSITY FOR PROOF OF INNOCENCE. 28 USC 2255.

12. Criminal Law Key 997 (12)

THE WRIT OF CORAM NOBIS IS AVAILABLE WITHOUT LIMITATION OF TIME FOR FACTS THAT AFFECT VALIDITY AND REGULARITY OF JUDGMENT. 28 USC 2255.

350 Mo. 300; 165 SW 2d 422 (1942). State v. Hailey

IN CRIMINAL JURISPRUDENCE, A VIOLATION OF SOME PROHIBITORY LAW AND INCLUDES ALL WILFUL, ACTIONABLE VIOLATION OF CIVIL RIGHTS, AND IS NOT CONFINED TO CRIMINAL ACTS.

2. Criminal Law Embezzlement.

"...the commingling of public moneys with defendants personal funds were sufficient to establish a prima facie case of embezzlement of public moneys."

251 F 2d 930 (CA 5) Covington v. Indemnity Ins. Co.

REMOVAL PROCEEDINGS ARE IN THE NATURE OF PROCESS TO BRING THE PARTIES BEFORE THE DISTRICT COURT AND MERE MODAL OR PROCEDURAL DEFECTS ARE NOT JURISDICTION; ALL PAPERS FILED AND PROCEEDINGS HAD IN THE STATE COURT PRIOR TO THE REMOVAL ORDER ARE PROPERLY A PART OF THE RECORD COMING TO THE DISTRICT COURT, BUT IF ANY OF THEM ARE LACKING FROM THE ORIGINAL REMOVAL RECORD THEY MAY BE LATER SUPPLIED. 28 USC 1446.

289 US 238 Hurn v. Ouraler

PENDENT FEDERAL JURISDICTION EXISTS ONLY WHEN TWO DISTINCT GROUNDS IN SUPPORT OF A SINGLE CAUSE OF ACTION ARE ALLEGED, ONE ONLY OF WHICH PRESENTS A FEDERAL QUESTION.

341 U.S. 6, 71 S.Ct. 534, 95 L.Ed 702 (1951)
Am. Fire and Cas. Co. v. Finn.

IT IS ONLY WHERE THE REMOVABLE CONTROVERSY IS ENTIRELY DISTINCT FROM EVERY OTHER CONTROVERSY IN THE CASE THAT THE DEFENDANT IN THE REMOVABLE CONTROVERSY CAN REMOVE THE ENTIRE CASE; A COMPLAINT SHOWING BUT A SINGLE WRONG TO PLAINTIFF ARISING FROM AN INTERLOCKED SERIES OF TRANSACTIONS DOES NOT ALLEGE SEPARATE AND INDEPENDENT CLAIMS AND PRECLUDES REMOVAL BY A PARTY GUILTY OF ONE OF SUCH TRANSACTIONS, EVEN THOUGH HE BE A NON-RESIDENT AND THE JURISDICTIONAL AMOUNT IS INVOLVED.

233 F 2d 242 (CA 10) McLeod v. Cities Service Gas Co.

WHERE ONE WRONG IS ALLEGED AND ONE JUDGMENT IS ASKED AGAINST TWO DEFENDANTS A SEPARATE AND INDEPENDENT CLAIM CANNOT BE SAID TO BE ALLEGED AGAINST EACH DEFENDANT EVEN THOUGH THE NEGLIGENT ACTS OF EACH WERE COMMITTED SEPARATELY AND AT DIFFERENT TIMES, FOR THEY COULD HAVE CONCURRED TO PRODUCE ONE WRONG FOR WHICH BOTH DEFENDANTS WOULD BE JOINTLY OR SEVERALLY LIABLE IN ONE JUDGMENT. 28 USC 1441.

170 F 2d 945 (CA 6) French Renovating Co. v. Ray Renovating Co.

BEFORE A DISTRICT COURT MAY ACCEPT JURISDICTION OF SUCH NON-FEDERAL CLAIMS IT MUST APPEAR THAT BOTH THE FEDERAL AND NON-FEDERAL CLAIMS REST UPON SUBSTANTIAL IDENTICAL FACTS.

IN THE REMOVED CASE AT BAR, PETITIONERS HAVE ALLEGED A SERIES OF WRONGS TO PETITIONERS, ARISING FROM AN INTERLOCKED SERIES OF TRANSACTIONS, AND DOES ALLEGE SEPARATE AND INDEPENDENT FEDERAL AND NON-FEDERAL CLAIMS AGAINST THE SEVERAL DEFENDANTS IN THE SEVERAL ACTIONS CONSOLIDATED.

307 F 2d 796 (CA 9) Harmon v. Superior Court.

Affirmed and applied 352 F 2d 836 (1965 CA 9)
Armstrong v. Rushing.

Federal Civil Procedure Key 839, 1721.

"The claim may be, as appellees assert, entirely spurious. The complaint may well not state a claim upon which relief can be granted. It may be that appellant cannot amend to state such a claim. But these are not the questions before us. The court cannot know, without hearing the parties, whether it may be possible for appellant to state a claim entitling him to relief, however strongly it may incline to the belief that he cannot. * * * The right to a hearing on the merits of a claim over which the court has jurisdiction is of the essence of our judicial system, and the judge's feeling that the case is probably frivolous does not justify by-passing that right. Appellant is entitled to have process issued and served, and to be heard."

10 L. Ed. 2d 622 (1963) McNeese v. Board of Education.

"HELD THAT THE EXHAUSTION OF STATE REMEDIES WAS NOT A PREREQUISITE TO MAINTAINING A SUIT TO ASSERT RIGHTS UNDER THE CIVIL RIGHTS ACT...."

Civil Rights § 12.5 — remedies — purpose of statute.

2. THE CIVIL RIGHTS ACT (42 USC § 1983), giving a right of action against a person who, under color of state law, custom, or usage, subjects another to the deprivation of any rights, privileges, or immunities secured by the Federal Constitution, has several purposes: (1) It overrides certain kinds of state laws; (2) it provides a remedy where state law is inadequate; and (3) it provides a federal remedy where the state remedy, though adequate in theory, is not available in practice.

Civil Rights § 12.5; States § 46 — federal and state remedies.

3. Assertion in a federal court of a federal claim under the Civil Rights Act (42 USC § 1983), giving a right of action against a person who, under color of state law, custom, or usage, subjects another to the deprivation of any rights, privileges, or immunities secured by the federal Constitution, need not await an attempt to vindicate the same claim in a state court.

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222 F 2d 258 (1955 CA 9) Lowe v. Manhattan Beach
2. Courts Key 299(3) City School Dis. of L.A. Cty.

COMPLAINT ALLEGING THAT CALIFORNIA SCHOOL DISTRICT AND SEVERAL INDIVIDUALS HAD ENTERED INTO AND TAKEN POSSESSION OF PLAINTIFF'S REAL PROPERTY AND HAD CONVERTED TO THEIR OWN USE PERSONAL PROPERTY AND A BUILDING ON BUT NOT ATTACHED TO REALTY, WAS SUFFICIENT FOR FEDERAL JURISDICTION AS A CAUSE ARISING UNDER UNITED STATES CONSTITUTION. FED. RULES CIV. PROC. RULE 8(a) (1); 28 USC 1331, 1332; U.S. Const. Amends. 4, 5.

AT 259

WE ARE OF THE OPINION THAT...THE CAUSE ARISES UNDER THE CONSTITUTION OF THE UNITED STATES. WE ARE OF THE OPINION THAT THE CASE OF BELL v. HOOD, 1946, 327 U.S. 678, 66 S.CT. 773, 90 L.Ed. 939, IS CONCLUSIVE AUTHORITY FOR THE DISTRICT COURT TO TAKE JURISDICTION AND DETERMINE THE MERITS OF THE CAUSE. JURISDICTION GENERALLY IS DISCUSSED 327 U.S. at pages 682 and 683, 66 S.CT. 773 of THE CITED CASE. THE BELL v. HOOD CASE WAS FOR DAMAGES ALLEGEDLY SUFFERED BY PLAINTIFFS THROUGH THE DEPRIVATION OF THEIR UNITED STATES CONSTITUTIONAL RIGHTS, FOURTH AND FIFTH AMENDMENTS, WITHOUT DUE PROCESS OF LAW BY AGENTS OF THE F.B.I. THE RIGHT ALLEGEDLY VIOLATED IN OUR CASE IS PROVIDED BY THE FOURTEENTH AMENDMENT. WE THINK WE NEED

DO NO MORE THAN QUOTE FROM THE LAST PARAGRAPH OF THE BELL v. HOOD OPINION, 327 U.S. on PAGES 684, 685, 66 S.CT. at PAGES 776, 778 :

"* * * The issue of law is whether federal courts can grant money recovery for damages said to have been suffered as a result of federal officers violating the Fourth and Fifth Amendments. That question has never been specifically decided by this Court. That the issue thus raised has sufficient merit to warrant exercise of federal jurisdiction for purposes of adjudicating it can be seen from the cases where this Court has sustained the jurisdiction of the district courts in suits brought to recover damages for depriving a citizen of the right to vote in violation of the Constitution. And it is established practice for this Court to sustain the jurisdiction of federal courts to issue injunctions to protect rights safeguarded by the Constitution and to restrain individual state officers from doing what the 14th Amendment forbids the state to do. Moreover, where federally protected rights have been invaded, it has been the rule from the beginning that courts will be alert to adjust their remedies so as to grant the necessary relief. And it is also well settled that where legal rights have been invaded, and a federal statute provides for a general right to sue for such invasion, federal courts may use any available remedy to make good the wrong done. Whether the petitioners are entitled to recover depends upon an interpretation of 28 U.S.C. § 41(1), 28 U.S.C.A. § 41(1), and on a determination of the scope of the Fourth and Fifth Amendments' protection from unreasonable searches and deprivations of liberty without due process of law. Thus, the right of the petitioners to recover under their complaint will be sustained if the Constitution and laws of the United States are given one construction and will be defeated if they are given another. For this reason the District Court has jurisdiction. Gully v. First National Bank, 299 U.S. 109.

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327 US 678 (1946) Bell et al v. Hood et al.

1. Where the complaint seeks recovery squarely on the ground of violation of plaintiffs' rights under the Fourth and Fifth Amendments, a federal district court has jurisdiction of a suit against agents of the Federal Government to recover damages in excess of $3,000 alleged to have been suffered by the plaintiffs as a result of such violations—even though neither the Constitution nor the Congress has provided for the recovery of money damages for such violations and the complaint is so framed as possibly to state a common law action in tort or trespass. Pp. 680-685.

2. Where a complaint in a federal court is so drawn as to seek recovery directly under the Constitution or laws of the United States, the court must entertain the suit; except: (a) where the alleged claim appears to be immaterial and made solely for the purpose of obtaining jurisdiction, or (b) where it is wholly insubstantial and frivolous. P. 682.

3. Whether the compalint states a cause of action on which relief could be granted is a question of law which must be decided after, and not before, the court assumes jurisdiction. P. 682.

4. The issue whether federal courts can grant money recovery for damages alleged to have been suffered as a result of federal agents violating the Fourth and Fifth Amendments has sufficient merit to warrant exercise of federal jurisdiction for purposes of adjudicating it. P. 684.

308 2d 187 Smith v. Cremins

The Federal Civil Rights Act creates rights and imposes obligations different from any which would exist at common law in the absence of statute, and although a given state of facts may give rise to a cause of action in common law tort as well as to a cause of action under the statute, the elements of the two are not the same.

Municipal police officers are not immune from civil prosecution under the Federal Civil Rights Act.

An action against police officers under the Federal Civil Rights Act for depriving the plaintiff of federal constitutional rights is not precluded by the fact that the officers' conduct was authorized by municipal enactments.

The elements of an action under the Federal Civil Rights Act Sec. 1983 are (1) the denial under color of state law (2) of a right secured by the Constitution and laws of the United States.

134 SE 2d 85 Re: Trusteeship of Kenan

The Fifth Amendment to the Constitution of the United States, declaring that no person shall be deprived of property without due process of law and that private property shall not be taken for public use without just compensation, and the Fourteenth Amendment, declaring that no state shall deprive any person of life, liberty, or property, without due process of law, or deny to any person within its jurisdiction the equal protection of the laws, are not confined to the legislature, but are applicable to courts and to the executive branch of the government.

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36 LRA 689, 102 Iowa 411 (1897) Hatcher v. Dunn.

1. THE LIABILITY OF AN INSPECTOR OF ILLUMINATING OIL, whose duties are prescribed by statute and rules and regulations adopted in accordance with statutory provisions, for injuries caused by insufficient testing of oil, is statutory.

2. FALSELY BRANDING ILLUMINATING OIL, for which the statute makes the inspector both civilly and criminally liable, involves intentional falsehood, and not mere error or unintentional wrong.

AT P. 690.

AN OFFICIAL BOND, WHATEVER SPECIAL CONDITIONS IT MAY CONTAIN, ALMOST INVARIABLY CONTAINS A GENERAL CONDITION THAT THE OFFICER SHALL FAITHFULLY DISCHARGE THE DUTIES OF HIS OFFICE. THIS CONDITION IS NOT BROKEN BY AN HONEST ERROR OF JUDGMENT, OR AN HONEST MISTAKE, OR WANT OF SKILL IN THE DISCHARGE OF A DUTY, WHERE THE PRECISE MODE OF DISCHARGING IT IS NOT POINTED OUT BY THE STATUTE.

* * * THE WORD "FALSE," AS APPLIED TO THE ACT OF A RESPONSIBLE BEING, IMPLIES INTENTIONAL OR KNOWN FALSITY, AND NOT A MERE STATEMENT WHICH IS INACCURATE OR INCORRECT. (CASES CITED.)

AT P. 692.

THE STATUTE UNDER CONSIDERATION MAKES THE OFFICER WHO VIOLATES ITS PROVISIONS LIABLE BOTH CIVILLY AND CRIMINALLY UPON PRECISELY THE SAME STATE OF FACTS, AND IS THEREFORE A PENAL STATUTE, TO BE STRICTLY CONSTRUED. Hanks v. Brown, 79 Iowa, 563, and cases therein cited; Sutherland, Stat. Constr. §§ 208-371. STATUTES ARE SOMETIMES ENACTED WHICH PROHIBIT ACTS, NOT BECAUSE OF ANY MORAL WRONG INVOLVED IN THEM, NOR OF ANY CRIMINAL INTENT WITH WHICH THEY ARE COMMITTED, BUT FROM CONSIDERATIONS OF PUBLIC POLICY; AND PERSONS ARE REQUIRED TO KNOW THE FACTS AND OBEY THE LAW, AT THE PERIL OF PUNISHMENT FOR DISOBEDIENCE, WITHOUT REGARD TO ACTUAL KNOWLEDGE OR WRONGFUL INTENT. THAT IS TRUE OF MANY FISCAL, POLICE, AND OTHER REGULATIONS. (CASES CITED.)

222 F Supp. 92 (Oct. 9, 1963) Mina v. Melnick
Affd. (CA 3, 329 F 2d 648) April 21, 1964, On review of the record we find no error. Affirmed.

1. Process key 168

ESSENTIAL ELEMENTS OF TORT OF MALICIOUS ABUSE OF PROCESS ARE PRESENT, WHERE PROCESS, THOUGH PROPERLY INSTITUTED WAS PREDICATED UPON ULTERIOR MOTIVE, AND PROCESS WAS PUT TO ILLEGAL USE OR PERVERTED BEYOND ITS INTENDED PURPOSE, AND PLAINTIFF OR HIS PROPERTY WAS ARRESTED OR SEIZED.

2. Process key 168

WHERE DEFENDANTS BROUGHT ACTION AGAINST PLAINTIFFS, TOOK FROM PLAINTIFFS NOT ONLY MORE THAN COULD BE DUE UNDER MORTGAGES BUT FUNDS WHICH WERE NOT DUE AT ALL, AND INDIRECTLY FORCED PLAINTIFFS FROM THEIR HOME, THERE WAS SEIZURE OF PLAINTIFFS PROPERTY, AND PLAINTIFFS COULD MAINTAIN ACTION FOR MALICIOUS ABUSE OF PROCESS.

AT 95. If THEIR PROPERTY WAS NOT SEIZED, THEN AN ACTION FOR ABUSE OF PROCESS CANNOT LIE, NO MATTER HOW FUTILE OR UNFOUNDED THE ACTION MAY BE.

CITES: 250 F 2d 595 (3 Cir. 1957), AN ACTION FOR BOTH MALICIOUS USE AND MALICIOUS ABUSE OF PROCESS.

MALICIOUS USE CONTEMPLATES PROCESS WHICH CANNOT BE JUSTIFIED ON THE FACTS.

AT P. 600, "...WE ARE OF THE OPINION THAT THE ACTION AT BAR CONCERNS THE INITIATION OF PROCEEDINGS AND NOT A PERVERSION OF THEM AND THAT THEREFORE THE SUIT AT BAR IS BOTTOMED ON MALICIOUS USE OF PROCESS.

y Bound

248 F. 2d 429 (CA Mo. 1957)

MERE FACT THAT CERTAIN FALSE INVOICES MADE OR USED BY DEFENDANTS FOR ULTIMATE PURPOSE OF SECURING FUNDS FROM THE GOVERNMENT WERE NOT THEMSELVES PRESENTED TO THE DEPARTMENT OF THE ARMY DID NOT MEAN THAT DEFENDANTS WHO MADE DOCUMENTS COULD NOT BE GUILTY OF A VIOLATION OF THIS SECTION PROSCRIBING MAKING OR USING A FALSE WRITING IN ANY MATTER WITHIN THE JURISDICTION OF ANY DEPARTMENT OF THE UNITED STATES, ON ANY THEORY THAT SUCH WRITING OR DOCUMENT COULD NOT BE REGARDED AS BEING WITHIN THE JURISDICTION OF A DEPARTMENT OR AGENCY OF THE UNITED STATES.

Palmer v. U.S. CA Colo. 1955,
229 F. 2d 861, certiorari denied 76 S.Ct. 546,
350 U.S. 996, 100 L.Ed. 860, rehearing denied
76 S.Ct. 844. 351 U.S. 958, 100 L.Ed. 1480.

ELEMENTS OF THE OFFENSE UNDER THIS SECTION ARE SCHEME TO DEFRAUD OR FOR OBTAINING MONEY OR PROPERTY BY MEANS OF FALSE PRETENSES AND USE OF MAILS FOR PURPOSE OF EXECUTING SUCH SCHEME.

195 F. Supp. 795 (D.C. N.Y. 1961) U.S. vs. Hughes

UNDER THE MAIL FRAUD STATUTE, EACH MAILING IS A SEPARATE CRIME.

238 F.Supp. 937 (D.C. La. 1965) Tyson v. Cazes.
Conspiracy Key 1.

TO RECOVER UNDER STATUTE RELATING TO CONSPIRACY TO DEPRIVE PERSON OF EQUAL PROTECTION OF THE LAWS, CONSPIRACY COMPLAINED OF MUST HAVE BEEN A CONSPIRACY PURSUANT TO OR UNDER COLOR OF STATE ACTION, RATHER THAN A CONSPIRACY INVOLVING INDIVIDUAL ACTION ONLY. 42 U.S.C.A. § 1985.

AT PAGE 944.

"'IT IS CLEAR, AS IT ALWAYS HAS BEEN SINCE THE CIVIL RIGHTS CASES, SUPRA, (109 U.S. 3, 3 S.Ct. 18, 27 L.Ed 835) THAT "INDIVIDUAL INVASION OF INDIVIDUAL RIGHTS IS NOT THE SUBJECT-MATTER OF THE AMENDMENT"... AND THAT PRIVATE CONDUCT ABRIDGING INDIVIDUAL RIGHTS DOES NO VIOLENCE TO THE EQUAL PROTECTION CLAUSE UNLESS TO SOME SIGNIFICANT EXTENT THE STATE IN ANY OF ITS MANIFESTATIONS HAS BEEN FOUND TO HAVE BECOME INVOLVED IN IT.' Burton v. Wilmington Parking Authority, 1961, 365 U.S. 715, 722, 81 S.Ct. 856.

AT PAGE 945.

THERE IS NO DOUBT THAT A POLICE OFFICER, ACTING UNDER COLOR OF STATE LAW, MAY BE LIABLE IN DAMAGES IF HE DEPRIVES A PERSON OF RIGHTS GUARANTEED BY THE CONSTITUTION AND LAWS OF THE UNITED STATES. 365 U.S. 167, 81 S.CT. 473, 318 F. 2d 110 (1963).

239 F. Supp. 106 (1964) Spiesel v. City of New York.
Conspiracy Key 1
Courts Key 299(3)

3. THE MERE ASSERTION THAT CLAIM ARISES UNDER CONSTITUTION IS SUFFICIENT TO GIVE THE COURT JURISDICTION TO DETERMINE IT, UNLESS CLAIM IS PLAINLY UNSUBSTANTIAL. 28 U.S.C.A. § 1331.

5. Courts Key 299(3) ASSERTION OF FOURTEENTH AMENDMENT CIVIL RIGHTS CLAIM AGAINST CITY WAS SUFFICIENT TO CONFER JURISDICTION ON COURT. 28 U.S.C.A. § 1331; U.S.C.A. Const. Amend. 14.

AT PAGE 108.

THE OTHER BASIS OF JURISDICTION ASSERTED IN THE COMPLAINT IS 28 U.S.C. § 1331, the "FEDERAL QUESTION" SECTION WHICH GIVES JURISDICTION OF ACTIONS WHEREIN THE MATTER IN CONTROVERSY EXCEEDS $10,000 "AND ARISES UNDER THE CONSTITUTION, LAWS OR TREATIES OF THE UNITED STATES." THE COMPLAINT ALLEGES THAT THIS ACTION ARISES UNDER THE FIFTH AMENDMENT. PLAINTIFF IS THUS ASSERTING THAT HIS CLAIM ARISES UNDER THE CONSTITUTION. THE RULE IS THAT THE MERE ASSERTION OF SUCH A CLAIM IS SUFFICIENT TO GIVE THE COURT JURISDICTION TO DETERMINE IT, UNLESS THE CLAIM IS PLAINT UNSUBSTANTIAL. Bell vs. Hood, 327 U.S. 678, 66 S.Ct. 773, 90 L. Ed. 939, 13 A.L. R. 2d 383 (1946); Pomero v. International Terminal Operating Co., 358 U.S. 354, 79 S.Ct. 468, 3 L.Ed. 2d 368 (1959).

...I therefore hold that the asserting of this claim under 28 U.S.C. § 1331 is sufficient to confer jurisdiction upon this court to decide it, and hence that the action should not be dismissed for lack of jurisdiction.

133 ALA, 479

THE ATTORNMENT OF A TENANT TO A STRANGER DOES NOT, OF ITSELF, DESTROY THE POSSESSION OF THE LANDLORD; AND WHEN THE POSSESSION OF THE RENTED PREMISES IS TORTIOUSLY GAINED FROM THE TENANT, OR THE TENANT HAS BEEN INDUCED TO ATTORN TO A STRANGER, A COURT OF EQUITY WILL NOT, ON SUCH POSSESSION, ENTERTAIN A BILL AT THE INSISTANCE OF THE TORT FEASOR, OR THE PERSON ATTORNED TO, TO REMOVE A CLOUD FROM HIS TITLE TO THE LAND.

86 Ill. 313

2. THE POSSESSION THAT GIVES JURISDICTION IN SUCH CASES MUST HAVE BEEN ACQUIRED IN A LAWFUL WAY. IF OBTAINED BY VIOLENCE, OR THE USE OF UNFAIR OR CORRUPT MEANS, A COURT OF EQUITY WILL NOT LEND ITS AID.

3. POSSESSION - WHEN WRONGFUL.

POSSESSION OF REAL ESTATE OBTAINED BY BUYING OFF THE TENANT OF ANOTHER AND ENTERING THE SAME, IS FRAUDULENT, BOTH IN LAW AND IN FACT, AND SUCH GUILTY PARTY WILL NOT BE PERMITTED TO MAKE HIS WRONGFUL CONDUCT THE FOUNDATION OF EQUITABLE JURISDICTION. POSSESSION OBTAINED BY FRAUDULENT MEANS WILL, IN EQUITY AT LEAST, BE TREATED AS NO POSSESSION.

Bound

OFFICE: 336-4356 RES. 922-8789

JOHN C. DeMOSS
ATTORNEY AT LAW
1612 - FIRST NATIONAL BANK BUILDING
MINNEAPOLIS, MINNESOTA 55402

January 12, 1967

ASSOCIATE:
LEO T. FOLEY

Mr. Paul Rosso
7 Ortman Street S. E.
Minneapolis, Minnesota

Re: Torrens File #14838, Holmes Application to Register Land.

Dear Sir:

I have examined the above mentioned file at your request. The sheriff's return shows personal service was on 5 April, 1961 upon Paulina Rosso and Melba P. Evanson.

The sheriff's return shows service was made on 5 April, 1961, upon Paul Rosso by leaving a true and correct copy at the house of his usual abode, with Paulina Rosso, a person of suitable age and discretion then residing therein.

The sheriff's return shows service was made on 5 April, 1961, upon Gordon Evanson by leaving a true and correct copy at his usual place of abode, with Melba P. Evanson, a person of suitable age and discretion then residing therein.

The file does not contain an answer by the above named Defendants.

The file does contain a certification dated August 2, 1961 by the Deputy Clerk of Court, A. C. Hopper, of no answer by the above named Defendants.

The file does not contain any service upon any of the several Defendants subsequent to the original service.

In checking the file I further find that the Order and Decree of Registration was filed by the Honorable Earl J. Lyons, Judge of Hennepin County District Court on August 8, 1961 and the Decree entered on the same date.

Very truly yours,

/s/ JOHN C. DeMOSS
John C. DeMoss

JCDeM/cjh

y Bound

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

William Holmes,
Plaintiff,
vs.
Paul Rosso,
Defendant.

ORDER
No. 533990

To the Sheriff of the County of Hennepin:

Upon the attached affidavit, ~~upon the testimony of plaintiff's attorney~~ upon all the files & records, upon plaintiff's oral motion, herein, IRB (Correction and insert initialed) being fully advised in the premises, and pursuant to the writ of execution in this action, you are hereby ordered to levy upon the following real property when requested to do so by the plaintiff or his attorneys:

Lot 4, Block 9, Wilson's Re-arrangment of Blocks 2, 3, 6, 7, 9, 10, 11, 14, 15, 19, 20, 21, 24, 26, 29, 31, 33, 35, 37, 39, and 41 of the East Side Addition to Minneapolis according to the map or plot thereof on file or of record with the register of deeds, Hennepin County, Minnesota.

BY THE COURT

/s/ Irving R. Brand
Irving R. Brand
District Judge

Dated this 25th day of February, 1958.

Date 185

File No.

Defendant Paul Rose

Residence Address 2326 Central Ave

Business Address 208 E Kenn

Make { Demand / Levy } on Real Property after search for personal property and after applicant of our property

Location

Remarks

Signature Attorney Charles A. Cox, Bldrs. Exch.

Telephone Fo 7-0769

3904

STATE OF MINNESOTA }
COUNTY OF HENNEPIN }

I hereby Certify and Return, that on the 7th day of March

A. D. 19 58, at the City of Minneapolis, said County and State, I posted notice of Sale

the original of which is hereto attached, in each of the three most public places in said City of Minneapolis, to-wit: One copy of said Notice on the Bulletin Board at Fourth Street entrance of the Court House and City Hall Building, one copy of said Notice on the Bulletin Board at the Fifth Street entrance of said Building, and one copy of said Notice on the Bulletin Board at Fire Station "A," number 19 and 21 North Fourth Street, all three being in said Hennepin County, and State aforesaid.

Sheriff's Fees, Posting, $ 1.00

Travel ..... $ 16

Total ..... $ 1.16

ED. RYAN
Sheriff of Hennepin County, Minn.

By _____
Deputy Sheriff.

- 3104 -

Form 111

STATE OF MINNESOTA
County of Hennepin

I HEREBY CERTIFY AND RETURN, That at the City of Minneapolis, County and State aforesaid, on the 7th day of March, A. D. 1958 I served the Notice of Sale Under Writ of Execution, hereto attached upon the within named Paul Rosso, personally by then and there handing to, and leaving with him a true and correct copy thereof.

Dated this 7th day of March, 1958

Sheriff's Fee—Service, $ 1.00
Copy - - $ .30
Travel - - $ .32
Total - - $ 1.62

ED RYAN,
Sheriff of Hennepin County, Minn.

By _____
Deputy Sheriff.

- 314 -

Form 111

STATE OF MINNESOTA
County of Hennepin

I HEREBY CERTIFY AND RETURN, That at the City of Minneapolis, County and State aforesaid, on the 7th day of March, A. D. 1958 I served the Notice of Sale under rit of Execution, hereto attached upon the within named Pauline Rosso, personally by then and there handing to, and leaving with her a true and correct copy thereof.

Dated this 7th day of March, 1958

Sheriff's Fee—Service, $ 50
Copy - - $ 30
Travel - - $
Total - - $ 80

ED RYAN,
Sheriff of Hennepin County, Minn.

By _____
Deputy Sheriff.

- 312 -

Page T

Form 111

STATE OF MINNESOTA
County of Hennepin

I HEREBY CERTIFY AND RETURN, That at the City of Minneapolis, County and State aforesaid, on the 7th day of March, A. D. 19 58 I served the Notice of Sale under Writ of Execution

hereto attached upon the within named Dan Rosso,

personally by then and there handing to, and leaving with him

a true and correct copy thereof.

Dated this 7th day of March, 19 58

Sheriff's Fee—Service, $ 50
Copy - - $ 30
Travel - - $
Total - - $ 80

ED RYAN,
Sheriff of Hennepin County, Minn.

By _____ Deputy Sheriff.

- 3131 -

Return of Execution, Wholly Unsatisfied on Judgment Debtor. 11-49 5M

STATE OF MINNESOTA,
County of Hennepin } ss

I HEREBY CERTIFY AND RETURN, That I Have demanded payment of the execution hereto attached from .....

..... the judgment debtor therein named; that payment thereof was refused. That after diligent search and inquiry, I have been unable to find any property, either personal or real, belonging to the within named defendant .....

..... from which to satisfy the within execution within my said county, I hereby return the same wholly unsatisfied.

Dated this ..... day of ..... 19.....

Sheriff's Fees—Return, $1.00
Travel, . . . $.....
Total, . . $.....

.....
Sheriff of Hennepin County, Minn.

By .....
Deputy Sheriff

3144-

[redacted]
Dated this 18th day of March 19 59

M Ryan
Sheriff of Hennepin County

By /s/ G. V. [redacted]
Deputy Sheriff

ghtly Bound

That an execution upon said judgment, against the property of the Defendant above named was on the 9th day of March, , A. D. 19 59, duly issued out of said District Court to the Sheriff of said, Hennepin County; that said Paul Rosso, - - - - Defendant did reside in said Hennepin County at the time of the issuing of said execution, and does now reside therein; that said Sheriff has returned said execution wholly unsatisfied; and that said judgment remains wholly unpaid; and that no previous application has been made for an order in supplementary proceedings in this action.

SAMUEL SALITERMAN

Subscribed and sworn to before me, this 20th day of March, 1959.

(Delores Okerstrom)
Notary Public, Henn. Co., Minn.
My commission expires October 20th 19[illegible].

ON READING THE FOREGOING AFFIDAVIT, The facts therein stated appearing to my satisfaction to be true, I hereby order and require the aforesaid defendant, Paul Rosso, - - - - - - to appear before

JEAN L. CROTEAU, Notary Public,

- 3151 -

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

William Holmes,
Plaintiff,
vs.
Paul Rosso,
Defendant.

AFFIDAVIT
OF IDENTIFICATION
Case No. 533990

STATE OF MINNESOTA
COUNTY OF HENNEPIN ss

Charles A. Cox, being duly sworn, deposes and says that he is attorney for plaintiff in the above-entitled action; that to the best of his knowledge, information and belief, the full name of the judgment debtor herein is Paul Rosso; that his business is that of plumber; that his former and present place of business is unknown; that he resides at 2326 Central Avenue N. E., Minneapolis, Minnesota.

/s/ Charles A. Cox
Charles A. Cox

Subscribed and sworn to
before me this 5th day
of June, 1959.

/s/ John C. McNulty
JOHN C. McNULTY
Notary Public, Hennepin County, Minn.
My Commission Expires Aug. 18, 1964.

Samuel H. Maslon
Hyman Edelman
Sidney Kaplan
Sheldon Kaplan
Roger E. Joseph
Marvin Borman
John C. McNulty
Charles A. Cox
Ronald J. Wolf
Samuel L. Kaplan

Builders Exchange Building
Minneapolis 2, Minn.

June
Fifth 1961

CERTIFIED MAIL

Mr. Leo Mady
Mady's Tavern
2326 Central Avenue N.E.
Minneapolis, Minnesota

Dear Mr. Mady:

We represent Mr. William Holmes, who is now the owner of the property at 2326 Central Avenue N.E., legally described as Lot 4, Block 9, Wilson's Rearrangement of Blocks 2,3,6,7,9,10,11,14,15,19,20, 21,24,26,29,31,33,35,37,39 and 41 of the East Side Addition to Minneapolis, Hennepin County, Minnesota.

Mr. Holmes purchased the premises at a sale under execution on August 17, 1959, Hennepin County District Court File No. 533990. Mr. Rosso did not redeem the premises from the judgment sale within the required year.

On August 3, 1960, the Hennepin County District Court, File No. 547205, adjudged and decreed that a deed from Paul Rosso to his parents was null and void, that Paul Rosso was the owner of the premises

Bound

at the time of the aforesaid sheriff's sale, and that our client, Mr. Holmes, is the owner of the aforesaid premises subject only to a lien against the premises arising from the judgment of another party against Paul Rosso.

On October 25, 1960, the Municipal Court of Minneapolis, File No. 32765, further adjudged that Mr. Rosso has no interest in the premises.

You are hereby notified that all future rent payments are to be made to Mr. Holmes in care of this office and that failure to make such rent payments will result in your being in default under your lease. If you have any questions in regard to this, we suggest that you or your attorneys contact the writer at once.

Very truly yours,

/s/ Charles A. Cox

CC:da Charles A. Cox

MINENKO, FEINBERG, MIRVISS
MEYERS & SCHUMACHER
ATTORNEYS AT LAW
TITLE INSURANCE BUILDING
400 SECOND AVENUE, SOUTH
MINNEAPOLIS 1, MINNESOTA

EUGENE MINENKO
ARNOLD I. FEINBERG
ISRAEL MIRVISS
RICHARD MEYERS
JAMES J. SCHUMACHER

FEDERAL 9-0431
SUBURBAN IFFICES:
BLOOMINGTON
NEW BRIGHTON

STATE OF MINNESOTA DISTRICT COURT
COUNTY OF HENNEPIN FOURTH JUDICIAL DISTRICT

William Holmes,
Plaintiff,
vs.
Paul Rosso,
Defendant.

ORDER

No. 533990

To the Sheriff of Hennepin County:

Upon the attached affidavit, upon the testimony of plaintiff's attorney, upon plaintiff's oral motion, being fully advised in the premises, and pursuant to the writ of execution in this action, you are hereby ordered to levy upon the following real property when requested to do so by the plaintiff or his attorneys:

Lot 4, Block 9, Wilson's Rearrangement of Blocks 2, 3, 6, 7, 9, 10, 11, 14, 15, 19, 20, 21, 24, 26, 29, 31, 33, 35, 37, 39, and 41 of the East Side Addition to Minneapolis according to the map or plat thereof on file or of record with the register of deeds, Hennepin County, Minnesota.

BY THE COURT:

/s/ Levi M. Hall
Levi M. Hall, District Judge

Dated: June 11, 1959.

FILED
JUN 11 1959
PHILIP C. SCHMIDT, CLERK
N. Masley Deputy

Return ... Wholly Unsatisfied on Judgment Debtor.

STATE OF MINNESOTA, County of Hennepin. } ss

I HEREBY CERTIFY AND RETURN, That I Have demanded payment of the execution hereto attached from Paul [illegible] ..... the judgment debtor therein named; that payment thereof was refused. That after diligent search and inquiry, I have been unable to find any property, either personal or real, belonging to the within named defendant ..... from which to satisfy the within execution within my said county, I hereby return the same wholly unsatisfied.

Dated this 17 day of June 1959

Sheriff's Fees—Return, $1.00
Travel, - - - $ .32
Total, - - $ 1.32

E. J. Regan
Sheriff of Hennepin County, Minn.

By [illegible]
Deputy Sheriff

County of Hennepin. }

I HEREBY CERTIFY AND RETURN, That on the 18th day of June 19 59, at 9:40 o'clock A.M., I filed a certified copy of the hereto attached Writ of ~~Attachment~~ Execution, Levy and Inventory in the office of the Register of Deeds in and for Hennepin County, and then and there paid him Two and no/100 Dollars, his charges for filing and recording the same.

Dated this 18th day of June 19 59

E. J. Regan
Sheriff Hennepin County, Minn.

By Walter Brusseau Deputy.

NOTICE OF SHERIFF'S EXECUTION SALE

Under and by virtue of an Execution issued out of and under the seal of the District Court of the State of Minnesota, in and for the Fourth Judicial District and County of Hennepin on the 11th day of June in the year 1959 upon a judgment rendered and docketed in said Court and County in an action therein, wherein William Holmes was plaintiff, and Paul Rosso was defendant, in favor of said plaintiff and against said defendant Paul Rosso for the sum of Three Thousand Forty-nine and 75/100 ($3,049.75) Dollars, as appears by the judgment roll filed in the office of the Clerk of said District Court for said County of Hennepin, and

WHEREAS, siad judgment was docketed in the District Court of Hennepin County on the 11th day of June in the year 1959 at 10:20 o'clock A.M. on said day and the sum of Three Thousand Forty-nine and 75/100 ($3,049.75) Dollars is now actually due thereon with interest on $3,049.75 Dollars from the 11th day of June A.D. 1959 and up to and including the date of sale, also for ...cents increased cost and for all my fees, costs and disbursements of levy and sale, which said Execution has to me as Sheriff of said Hennepin County been duly directed and delivered, I have levied upon and will sell at public auction to the highest cash bidder in the lobby of the Sheriff's main office in the District Court House in the City of Minneapolis, in said County of Hennepin, on Monday the 17th day of August 1959 at ten o'clock in the forenoon of that day, all the right, title and interest that the above named judgment debtor had in and to the real estate hereinafter described on the 11th day of June 1959, that being the date of rendition of said judgment or any interest therein which said judgment debtor Paul Rosso have since that day acquired, the description of the property being as follows, to-wit:

Lot 4, Block 9, Wilson's Re-arrangement of Blocks 2, 3, 6, 7, 9, 10, 11, 14, 15, 19, 20, 21, 24, 26, 29, 31, 33, 35, 37, 39, and 41 of the East Side Addition to Minneapolis according to the plat thereof on file and of record in the office of the Register of Deeds in and for said Hennepin County, Minnesota.

Dated Minneapolis,Minn., June 18th 1959. Ed Ryan
Sheriff Hennepin County, Minn.
By /s/ Walter Rusinko - Deputy Sheriff.
McNulty and Cox - Attorneys for Judgment Creditor

JAMES LEDWEIN,

Plaintiff,

-vs-

PAUL D. ROSSO; DAN ROSSO; PAULINE ROSSO; and WILLIAM HOMES,

Defendants.

AFFIDAVIT OF SERVICE

547205

STATE OF MINNESOTA)
)SS.
COUNTY OF HENNEPIN)

KENNETH ESTUM, being first duly sworn upon oath, deposes and says that at the City of Minneapolis, County of Hennepin, State of Minnesota, on the 27th day of July, 1959, he served a copy of the Summons and Complaint in the foregoing attached action upon the defendant, Dan Rosso personally by then and there handing to and leaving with Dan Rosso, a true and correct copy of the Summons and Complaint; that the person so served is known to affiant to be the same person as the defendant, Dan Rosso.

YOUR AFFIANT FURTHER STATES that at the City of Minneapolis, in the County of Hennepin, State of Minnesota, on the 27th day of July, 1959, he served a copy of the Summons and Complaint upon Paul D. Rosso, by then and there leaving with at his home of usual abode, with Dan Rosso, a person of suitable age and discretion, then resident therein, a true and correct copy of the Summons and Complaint; that said person is to affiant well known to be the same person as the within named defendant, Paul D. Rosso.

YOUR AFFIANT FURTHER STATES that at the City of Minneapolis, in the County of Hennepin, State of Minnesota, on the 27th day of July, 1959, he served a copy of the Summons and Complaint upon Pauline Rosso, by then and there leaving with at her home of usual abode, with Dan Rosso, a person of suitable age and discretion, then resident therein, a true and correct copy of said Summons and Complaint; that said person is to affiant well known to be the same person as the within named defendant, Pauline Rosso.

FURTHER AFFIANT SAYETH NOT.

Kenneth Estum
KENNETH ESTUM

Subscribed and sworn to before me
this 27th day of July, 1959.

(Jean L. Croteau)
Notary Public, Hennepin County, Minn.
My Commission expires April 13th, 1963.

(NOTARIAL SEAL)

- 3231 -

DISTRICT COURT
Fourth Judicial District

JAMES LEDWEIN,
Plaintiff,
against
PAUL D. ROSSO, et al,
Defendant.

AFFIDAVIT OF IDENTIFICATION

547205

FILED
AUG 3 1960
PHILIP C. SCHMIDT, CLERK
H. C. Amend Deputy

STATE OF MINNESOTA)
County of Hennepin) ss

SAMUEL SALITERMAN being duly sworn deposes and says that he is the attorney for the plaintiff in the above entitled action; that to the best of his knowledge, information and belief, the full name of the judgment debtor herein is DAN ROSSO; that his business is that of self-employed; that his present place of business is at No. 2326 Central Avenue Northeast in the City Town of Minneapolis, County of Hennepin State of Minnesota and that he resides at No. 2326 Central Avenue Northeast in the City Town of Minneapolis County of Hennepin State of Minnesota; further dependent saith not.

/s/ Samuel Saliterman
SAMUEL SALITERMAN

Subscribed and sworn to before me this
3rd day of August, 1960
/s/ Delores Okerstrom
(Delores Okerstrom) Notary Public,
Hennepin County, Minn.
My Commission Expires October 20, 1961.

DISTRICT COURT
Fourth Judicial District

JAMES LEDWEIN,
Plaintiff,

against

PAUL D. ROSSO, et al,
Defendants.

AFFIDAVIT OF IDENTIFICATION

547205

FILED
AUG 3 1960
PHILIP C. SCHMIDT, CLERK
H. C. Amend Deputy

STATE OF MINNESOTA)
County of Hennepin) ss

SAMUEL SALITERMAN being duly sworn deposes and says that he is the attorney for the plaintiff in the above entitled action; that to the best of his knowledge, information and belief, the full name of the judgment debtor herein is Pauline Rosso; that his business is that of house-wife; that his present place of business is at No. 2326 Central Avenue Northeast in the City Town of Minneapolis County of Hennepin State of Minnesota and that he resides at No. 2326 Central Avenue Northeast in the City Town of Minneapolis County of Hennepin State of Minnesota; further deponent saith not.

/s/ Samuel Saliterman
SAMUEL SALITERMAN

Subscribed and sworn to before me this
3rd day of August 1960
/s/ Delores Okerstrom
(Delores Okerstrom) Notary Public,
Hennepin County, Minn.
My Commission Expires October 20, 1961.

DISTRICT COURT
Fourth Judicial District

JAMES LEDWEIN,
Plaintiff,

against

PAUL D. ROSSO, et al,
Defendants.

AFFIDAVIT OF IDENTIFICATION

547205

FILED
AUG 3 1960
PHILIP C. SCHMIDT, CLERK
H. C. Ammend Deputy

STATE OF MINNESOTA)
County of Hennepin) ss

SAMUEL SALITERMAN being duly sworn deposes and says that he is the attorney for the plaintiff in the above entitled action; that to the best of his knowledge, information and belief, the full name of the judgment debtor herein is Paul D. Rosso; that his business is that of self-employed; that his present place of business is at No. 2326 Central Avenue Northeast in the City Town of Minneapolis County of Hennepin State of Minnesota and that he resides at No. 2326 Central Avenue Northeast in the City Town of Minneapolis County of Hennepin State of Minnesota; further deponent saith not.

/s/ Samuel Saliterman
SAMUEL SALITERMAN

Subscribed and sworn to before me this
3rd day of August 1960
/s/ Delores Okerstrom
(Delores Okerstrom) Notary Public,
Hennepin County, Minn.
My Commission Expires October 20, 1961.

ANSWER BY MELBA P. EVANSON AND GORDON L. EVANSON TO LAND TITLE SUMMONS # 14838.

DELIVERED BY CERTIFIED MAIL NO. 541253 ON 24 APRIL 1961. RETURN RECEIPT SIGNED BY CLERK OF DISTRICT COURT, F. A. ARCHAMBO.

22 April 1961

Philip C. Schmidt
Clerk of Hennepin County District Court
County Courthouse
Minneapolis, Minnesota

Dear Sir:

Regarding: Erroneous Land Title Summons, No. 14838.

I, Melba P. Evanson, am the absolute owner of Wilson's Rearrangement East Side Addition, Lot 4, Block 9; it is my homestead; it is assessed in my name, and I am the taxpayer.

I am expecting your office to have this Summons stricken at once, due to the fact that my title is registered correctly in my name, the current taxes are paid, and I have no unpaid bills of any kind.

Very truly yours,

/s/ Melba P. Evanson
Melba P. Evanson

/s/ Gordon L. Evanson
Gordon L. Evanson
2324 Central Avenue Northeast
Minneapolis 18, Minnesota

ANSWER BY PAULINA M. ROSSO TO LAND TITLE SUMMONS # 1483 DELIVERED BY CERTIFIED MAIL NO. 541245 ON 26 APRIL 1961. RETURN RECEIPT SIGNED BY PHILIP SCHMIDT, AGENT M. J. FABEY.

25 April 1961

Philip C. Schmidt
Clerk of Hennepin County District Court
County Courthouse
Minneapolis, Minnesota

Dear Sir:

Regarding: Land Title Summons, No. 14838.

How, why, when, where, and from whom was the authority acquired to serve me the above described newspaper summons?

This is obviously a complete nullity and a nuisance.

Very truly yours,

/s/ Paulina M. Rosso
PAULINA M. ROSSO
2326 Central Avenue Northeast
Minneapolis 18, Minnesota

ANSWER BY PAUL D. ROSSO TO LAND TITLE SUMMONS # 14838.

DELIVERED BY CERTIFIED MAIL NO. 541244 ON

26 APRIL 1961. RETURN RECEIPT SIGNED BY

PHILIP SCHMIDT, AGENT M. J. FAHEY.

25 April 1961

Philip C. Schmidt
Clerk of Hennepin County District Court
County Courthouse
Minneapolis, Minnesota

Dear Sir:

Regarding: Land Title Summons, No. 14838.

This summons is a continuation of the November 1957 pretended cause of action, District Court Case No. 533990, instigated by a William Holmes and his Court Agent Charles Cox, in which they tried to extort $100. or $1,100 from Paul Rosso, by fraud, threats and coercion.

In this November 1957 attempt, William Holmes advertised in the Minneapolis Tribune, a brick building for sale, Owner Agt. The telephone number given was for the Waite Park Realty Company.

Paul Rosso answered this newspaper ad by telephone, and was told by William Holmes to meet him at the Waite Park Realty Company. Paul Rosso, together with Holmes, looked briefly at the building during a driving rainstorm, and did pay $20.00 as down-payment.

The following day, on closer inspection, this advertised "brick" building was instead a "brick veneer" building. (See attached papers). Please note the Building Permit.

Paul Rosso answered this Summons and Complaint by registered mail.

Rosso then received in the mail, what appeared to be a Christmas card, an envelope containing a "Note of Issue" from the Plaintiff's attorney.

Shortly after, why did Attorneys McNulty and Cox sent to Paul Rosso, a registered mail letter, which was refused and returned unopened, and then sent four more letters with 3¢ stamps, which were refused and returned unopened? ALL CLASSES OF MAIL MAY BE REFUSED. See Postal Laws 355.11(8) all classes, and 158.1. Also see U.S.C.A. Ch. 11 § 386.

One morning a Hennepin County Sheriff appeared at the back door of our residence and served Paul Rosso, Mr. Dan Rosso and Mrs. Dan Rosso, each a copy of Sheriff's Execution Sale, listing Mr. and Mrs. Dan Rosso's homestead for Sheriff sale. See Minnesota Statutes Chapter 550.04, Execution How Issued; contents, and Chapter 510.

Dan Rosso's Attorney John Labenski, related the following to Paul Rosso and Dan Rosso :

Attorneys McNulty and Cox, unknown to Paul Rosso, went to the Court and had his (Paul Rosso's) answer stricken because the registered letter was refused and returned. Attorneys McNulty and Cox, unknown to Paul Rosso, went back to the Court and got a judgment from the Court, because a 3¢ letter was refused and returned. Attorneys McNulty and Cox, unknown to Paul Rosso, went back to the Court and had property owned by Mr. and Mrs. Dan Rosso, put up for Sheriff's Sale to pay an alleged judgment against Paul Rosso, because a 3¢ letter was refused and returned.

Were Attorneys McNulty and Cox aware of the City and State and Federal Ordinances and Laws, and were they aware of the Postal Regulations ?

Were Attorneys McNulty and Cox violating any laws by advertising property for sale, in the newspaper that was not owned by Defendant, Paul Rosso, and if they were not, does it appear anyone else was in violation of the laws?

Attorney John Labenski then talked to Attorney Edward Dietrich, who agreed to take the case.

Attorney Edward Dietrich then made a "Motion to Vacate Judgment, To Reinstate the Defendant's Answer, and for an Order of the Court directing the Sheriff of Hennepin County to abandon and in all ways discontinue its levy upon the following described Real Estate". Legal description of Dan and Paulina Rosso's homestead followed.

On April 10, 1958, Judge Levi Hall granted the motion of Attorney Edward Dietrich, and ordered Dan Rosso to pay $67.00 as costs to the Plaintiff.

Why did Judge Hall order Dan Rosso to pay $67.00? Does it appear that Judge Hall was protecting the Court, or was Judge Hall interested in protecting the Plaintiff's attorneys?

Attorney Dietrich had read aloud the answer to the complaint to the Judge.

Attorneys McNulty and Cox then made a Motion for a Summary Judgment.

On JUNE 24, 1958, JUDGE PAUL CARROLL ORDERED, "that said motion be and the same hereby is in all things DENIED. Stay 10 days."

On July 2, 1958, Attorney Dietrich wrote to Paul Rosso, the following:

> "I have contacted Mr. Crowe of the real estate board and he is going to continue his investigation of this matter and make a written report to us when it is completed".

To Paul Rosso's knowledge, no report was ever made.

Why didn't Mr. Crowe of the Real Estate Board take action when the way was cleared for him by Judge Carroll?

On November 24, 1958, why did the Clerk of District Court again place this case on the active trial calendar of December 9, 1958?

After this case was on the active trial calender over 30 days, why wasn't this case stricken from the calendar by the Clerk of District Court?
See App. 7, Rule 11, 4th Judicial District Rule 5(b), (e), (k), (4).

On February 11, 1959, why did Attorney Dietrich take Rosso to Judge Heinzen's Court?

Did there appear to be any collusion between Attorneys McNulty, Cox, and Dietrich at Heinzen's "court" ?

On or about May 7, 1959, Attorneys McNulty and Cox openly collaborated with Attorney Richard Hunegs in the Ledwein vs. Rosso Case No. 532205, in which Saliterman and Hunegs attempted by fraud and deceit and by collaboration with Paul Rosso's Attorney Samuel Segal, to extort first $50,000, and then $2,500 from Paul Rosso.

Because Paul Rosso objected to go to an alleged "Supplementary Proceedings" to be held in Attorney Saliterman's Office, Judge Rolf Fossen ordered, "you, (Rosso) are going upstairs to County Jail for 10 days if you don't pay $50.00 at that table right now".

The Hennepin County Sheriff, without any warrant or commitment order, immediately took Paul Rosso to the Jail elevator and held Rosso for 10 days in County Jail.

If objecting to the jurisdiction of a Court is contempt of Court, why wasn't Rosso allowed time to appeal? A Contempt of Court is appealable.

In County Jail, Attorney Richard Hunegs served papers, and someone who appeared to be a Sheriff, served papers for Attorney Cox and McNulty for more Court appearances.

In Court, the two Court appearances by Paul Rosso evidently did not satisfy these attorneys because no tribute was yet received for their so called "efforts".

On July 27, 1959, in a united effort, these attorneys "combined", and initiated another fraudulent action, Case No. 547205, entitled: James Ledwein, Plaintiff, VS. Paul D. Rosso; Dan Rosso; Paulina Rosso; and William Holmes, Defendants.

This fraudulent action again attempted to extort money by fraud, threats and coercion, and put up for Sheriff sale, Dan and Paulina Rosso's homestead.

These proceedings still did not satisfy these combined attorneys.

Again these combined attorneys initiated another fraudulent action in the Municipal Court of Minneapolic, Case No. 32765, entitled : William Holmes, Plaintiff, against Paul Rosso Defendant: Complaint in Unlawful Detainer.

THIS UNLAWFUL DETAINER APPEARS TO BE AN ATTEMPT TO EVICT PAUL ROSSO FROM A 208 EAST HENNEPIN AVENUE BUILDING. IN COURT, THE JUDGE, TO SAY THE LEAST, "WAS CONFUSED".

On DECEMBER 7, 1960, W. B. ERICKSON, who EXHIBITED A POLICE BADGE, ORDERED PAUL ROSSO AT 208 EAST HENNEPIN AVENUE, "TO BE OUT WITHIN 24 HOURS ON ORDERS OF WRIT OF RESTITUTION # 32765".

Upon inquiring with this Mr. W. B. Erickson, as to, "Why?", his only answer was "get out in 24 hours".

Apparently these combined attorneys were still not satisfied.

On April 5, 1961, the combined attorneys now increased, and under the name of "Maloney, Carroll and Olson" initiated in the District Court a sham "Land Title Summons No. 14838", containing the description of Melba P. Evanson and Gordon L. Evanson's homestead.

Because jurisdiction has not been acquired at any time by any Court, all proceedings are void and in violation of our Constitutional, Statutory and Civil Rights.

Respectfully submitted,

/s/ Paul D. Rosso
PAUL D. ROSSO
2326 Central Avenue Northeast
Minneapolis 18, Minnesota

April 25, 1961

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

JAMES LEDWEIN,
Plaintiff,

-vs-

PAUL ROSSO,
Defendant.

SATISFACTION OF JUDGMENT

532205

THIS certifies that the Judgment entered and docketed in the above entitled action in the above named Court in favor of the plaintiff and against the defendant has been paid and satisfied in full; and the Clerk of said Court is hereby authorized and directed to satisfy the same of record.

IN WITNESS WHEREOF, the undersigned has hereunto affixed his hand and seal the 16th day of August, 1961 together with the Attorneys Lien filed therein.

Signed, Sealed and Delivered
in Presence of:

/s/ Esme Franzen

/s/ Lorraine Sharry

/s/ James Ledwein
JAMES LEDWEIN

/s/ Samuel Saliterman
SAMUEL SALITERMAN

STATE OF MINNESOTA)
COUNTY OF HENNEPIN) ss

On this 16th day of August, 1961, before me, a Notary Public, personally appeared James Ledwein and Samuel Saliterman, to be known to be the persons who executed the foregoing instrument and acknowledged that they executed the same as their free act and deed, and as attorney for the above named plaintiff.

/s/ Esme Franzen
(Esme Franzen
Notary Public, Hennepin County, Minn. My Commission expires August 3, 1967
(Notarial Seal)

STATE OF MINNESOTA DISTRICT COURT
COUNTY OF HENNEPIN FOURTH JUDICIAL DISTRICT

JAMES LEDWEIN,
Plaintiff,

vs.

PAUL ROSSO, DAN ROSSO,
PAULINE ROSSO and WILLIAM HOLMES,
Defendants.

SATISFACTION OF JUDGMENT

No. 547205

THIS certifies that the Judgment entered and docketed in the above entitled action in the above named Court in favor of the plaintiff and against the defendant has been paid and satisfied in full; and the Clerk of said Court is hereby authorized and directed to satisfy the same of record, together with any attorney's liens filed by Samuel Saliterman, attorney for plaintiff.

IN WITNESS WHEREOF, the undersigned has hereunto affixed his hand and seal the 16th day of August, 1961.

Signed, Sealed and Delivered
in Presence of:

/s/ Susan C. Shaw

/s/ Diane Spandel

/s/ James Ledwein
JAMES LEDWEIN

/s/ Samuel Saliterman
SAMUEL SALITERMAN

STATE OF MINNESOTA)
) ss
COUNTY OF HENNEPIN)

On this 16th day of August, 1961, before me a Notary Public, personnally appeared JAMES LEDWEIN and SAMUEL SALITERMAN, to me known to be the persons who executed the foregoing instrument and acknowledged that they executed the same as their free act and deed, and as attorney for the above named plaintiff.

/s/ Delores Okerstrom
(Delores Okerstrom)
Notary Public, Hennepin County, Minn.
My Commission expires October 20, 1961.
(Notarial Seal)

22 DECEMBER 1966

Mr. Herman J. Ladin
President
Mohawk Transfer and Storage Company
507 - 9th Avenue South
Minneapolis, Minnesota

Dear Sir: Re: Mr. and Mrs. Gordon L. Evanson
2324 Central Avenue Northeast
LOT # 7816

and
Mr. Paul Dan Posso and Mrs. Paulina Posso
2326 Central Avenue Northeast
Minneapolis, Minn., 55418
EXEMPT PERSONAL POSSESSIONS TAKEN ON 30 NOVEMBER 1961.

I would like to know whether your company has our exempt personal possessions in the same warehouse at 507 - 9th Avenue South, Minneapolis.
Thank you.

Respectfully submitted,

Mrs. Gordon L. Evanson
Now at: 7 Ortman Street Southeast
Minneapolis, Minn., 55414

United Van Lines Inc
moving with care everywhere

Mohawk Transfer & Storage Co.
507 - 9th Avenue, So.
Minneapolis, Minn.
Phone: 335-8778

January 16th, 1967

Mrs. Gordon L. Evanson
7 Ortman Street Southeast
Minneapolis, Minn. 55414

Re: Lots No. 7816 and 7817
Evanson and Rosco

Dear Mrs. Evanson:

Please be advised that these goods stored under Lot No. 7816 and Lot No. 7817 were forclosed under warehouseman's lien law on June 12th, 1962.

As we had heard nothing from you about these goods since the foreclosure, they were disposed of. Lot No. 7816 was sold to Amans Furniture Co., Rice Lake, Wisconsin on August 22nd, 1966. Lot 7817 was also disposed of with the exception of one chair, which we have in our warehouse.

We hope this is the information desired.

Yours very truly,

MOHAWK TRANSFER & STORAGE CO.

By /s/ Herman J. Ladin
Herman J. Ladin, Pres.
(M.L.)

On 17 JANUARY 1967, after receiving the above letter from MOHAWK, PAUL DAN ROSSO, telephoned the President of MOHAWK TRANSFER & STORAGE COMPANY, Mr. HERMAN LADIN.

After introducing himself to Mr. LADIN, and making reference to the EVANSON-ROSSO Exempt Personal Possessions, LOT 7816 and LOT 7817, PAUL DAN ROSSO, asked Mr. LADIN: How much has N. W. HOLDING COMPANY paid for moving and storage of the possessions taken from 2324—2326 Central Avenue N. E.?

MR. HERMAN LADIN stated: We have not received one penny from N. W. Holding Company; they should pay all charges. They never fulfilled their obligation. We sent them bills and they do not answer. We even sent registered mail, return receipts, and they do not answer. We perhaps could have carried it further, but we didn't. They were supposed to pay, but they didn't. We foreclosed on a warehousemen's lien law, on JUNE 12, 1962. We sold the Lot for three-hundred fifty dollars ($350.00), on 22 AUGUST 1966. We did not open the boxes. We sold it intact. We don't know if it was worth $350.00, or if it was worth more.

y Bound

Mr. HERMAN LADIN further stated: I called Mr. AMANS from Rice Lake, Wisconsin, to bid on it. We cleared the warehouse for the space. What are you driving at? I held the stuff long enough. These were my goods I sold. I got Sheriff's Title. You can call the Sheriff 's Office for a copy of the Sheriff's Certificate. Just say your name is Paul Rosso. P, O, S, S, O. That's all.

On 17 JANUARY 1967, PAUL DAN ROSSO made a telephone call to the Hennepin County Sheriff's Office, and requested to get a copy of a JUNE 12, 1962, SHERIFF'S CERTIFICATE OF SALE to MOHAWK TRANSFER, of EVANSONS and ROSSOS belongings.

The call was referred to DEPUTY SHERIFF RUSINKO, Telephone Number 330-3742, because, "he sold that stuff ".

DEPUTY SHERIFF WALTER RUSINKO stated, MOHAWK TRANSFER has the Sheriff's Certificate of Title. We only make one copy. We have entries in a ledger here, that is all. I don't see why Mr. HERMAN LADIN won't give you a copy. That should not be much trouble for him. I can ask him (Ladin) for a copy, but I don't know if he will

give me a copy. I will let you know.

A direct dial telephone call was made to: 112-715-234-3252, the AMANS FURNITURE COMPANY, Rice Lake, Wisconsin.

PAUL DAN ROSSO requested to speak to the Owner, and MR. HARRY AMANS answered. When asked whether he still had LOT 7816, purchased from MOHAWK TRANSFER & STORAGE CO., on 22 AUGUST 1966, Mr. HARRY AMANS answered: That was a long time ago. What kind of furniture did you have/? It's all gone. We handle 150 lots a year. I have 32 lots out of LaBelle's that we are now disposing of. We don't buy anything that is put in after 1963. We handle 150 lots a year. They are delinquent. The warehouse people hold them 2½ years after a Sheriff's Sale,,notifying all parties, and then sell them. They handle the legal end. Some people don't want their stuff. Some boxes are open, some are not. We bring back personal effects - pictures and stuff like that, when asked to, by the warehouse people, otherwise we dispose of them. We don't like to do it, but what else can we do? We don't know where these people live. We bid on the warehouse receipt. You got a copy of one.

Mr. HARRY AMANS further stated: We pick the goods up in our truck. They are in possession. We don't care where they get the stuff. I don't remember what we paid for that lot. I got a 3 foot by 3 foot box full of receipts. If Mr. LADIN said we paid $350.00 that is what we paid. He (Ladin) keeps records.

We put the goods on the counter in the store and sell them - jewelry, fur coats, oil paints - everything. Sorry, nothing I can do.

The following letter:
Sent by Certified Mail No. 539569,
on JANUARY 24, 1967. RETURN RECEIPT REQUESTED.

Received by HARRY AMANS on January 25, 1967.

24 JANUARY 1967

Mr. Harry Amans
AMANS UNCLAIMED STORAGE FURNITURE
27 W. Eau Claire Street
Rice Lake, Wisconsin

Direct Dial Telephone 112-715-234-3252

Dear Sir:

Regarding: THE EXEMPT PERSONAL POSSESSIONS OF

MR. AND MRS. GORDON L. EVANSON AND FAMILY - OVER 6,000# - ORIGINALLY SEIZED BY FORCE, ORGANIZED VIOLENCE, AND TERROR, FROM THE HOMESTEAD PREMISES, 2324-2326 CENTRAL AVENUE NORTHEAST, MINNEAPOLIS, MINNESOTA.

THE NORTHWEST HOLDING COMPANY, A MINN. CORPORATION; THEIR ATTORNEYS, AGENTS; THE MINNEAPOLIS POLICE; THE MOHAWK TRANSFER AND STORAGE COMPANY, TOGETHER WITH OTHERS - FIRST ON NOVEMBER 21, 1961, AND AGAIN ON NOVEMBER 30, 1961, UNDER "COLOR OF LAW", TOOK AND CARRIED AWAY THE EXEMPT PERSONAL POSSESSIONS, AND HELD THE SAME AT MOHAWK'S WAREHOUSE.

On 22 DECEMBER 1966, Mrs. GORDON L. EVANSON, wrote a letter to Mr. HERMAN J. LADIN, President, MOHAWK TRANSFER & STORAGE COMPANY, and inquired if our LOTS 7816 and 7817, exempt personal possessions, were in the same warehouse, 507 Ninth Avenue South, Minneapolis. No reply was received.

On 10 JANUARY 1967, PAUL DAN ROSSO telephoned Mr. HERMAN J. LADIN, and was told that the two Lots were foreclosed under the Warehousemen's lien law, on JUNE 12, 1962, and that on AUGUST 22, 1966, he (Ladin) sold the EVANSON Lot 7816, to the AMAN'S FURNITURE COMPANY, Rice Lake, Wisconsin. Mr. Ladin said the ROSSO Lot was still in the warehouse. Mr. LADIN stated he would write a letter to this effect, to EVANSONS at 7 Ortman Street Southeast, Minneapolis.

Evansons received a dated JANUARY 16, 1967, letter from Mr. Herman Ladin, which recited that the Evanson's Lot was sold to AMANS FURNITURE COMPANY, and the ROSSO Lot was disposed of, except for one chair, which is in the warehouse.

On 17 JANUARY 1967, by telephone I talked to Mr. LADIN, who stated that he had called Mr. AMANS, Rice Lake, Wisconsin, to purchase the Lot, to clear the warehouse; that he (Ladin) had held that Lot, long enough; that he (Ladin) received $350.00 for the EVANSON'S Lot, not knowing its value, as he (Ladin), sold it not opened.

On 17 JANUARY 1967, a telephone call was made to Mr. AMANS, by PAUL ROSSO.

On 20 JANUARY 1967, I made personal inquiry with Hennepin County Deputy Sheriff WALTER RUSINKO, regarding a Sheriff's Sale of the EVANSONS' POSSESSIONS in storage, to the MOHAWK TRANSFER & STORAGE CO., 507 - 9th Avenue, Minneapolis.

On 20 JANUARY 1967, Deputy Sheriff RUSINKO checked the records and files in his office for the years 1962, and 1963, and could not find entries that the Hennepin County Sheriff's Office had sold the EVANSONS' AND ROSSOS' EXEMPT PROPERTY to satisfy a Warehousemen's lien.

On 20 JANUARY 1967, at the Register of Deeds Office, Hennepin County, Deputy ELMER DUEMKE, personally checked the records and did not find any such Sheriff's Certificate of Sale, recorded.

On 20 JANUARY 1967, I telephoned Mr. HERMAN J. LADIN, President of MOHAWK TRANSFER & STORAGE CO., and stated the Register of Deeds Office, did not have a Sheriff's Certificate of sale recorded.

tly Bound

Mr. LADIN then answered, that he had the Sheriff's Certificate, in his file. Mr. LADIN stated he would mail a copy of the Sheriff's Certificate, together with statements addressed to NORTHWEST HOLDING CO., A MINN. CORPORATION, which were unpaid by Tuesday or Wednesday, 24 or 25 January 1967, to Mr. GORDON L. EVANSON.

I adivsed Mr. LADIN to get together with you, Mr. HARRY AMENS, and gather together the EVANSONS' POSSESSIONS, and return them at once to storage.

I, as well as Mr. and Mrs. Gordon L. Evanson, would like to hear from you, as to what steps you are taking.

Respectfully submitted,

PAUL DAN ROSSO
7 Ortman Street Southeast
Minneapolis, Minnesota, 55414

cc:

1. Mr. HERMAN J. LADIN, Pres.,
   Mohawk Transfer & Storage Co.
2. Hennepin County Deputy Sheriff, WALTER RUSINKO.

MOHAWK

TRANSFER & STORAGE CO.

507 NINTH AVENUE SOUTH MINNEAPOLIS 4, MINN.

FEderal 5-8778

Date Jan. 4th, 1961

YOUR ORDER NO.

OUR ORDER NO.

LOT NO. 7816

Fed. 9-043/

- 347A -

Northwest Holding Co.

Title Insurance Bldg. (8th Floor)

Minneapolis, Minnesota

		Property of Gordon Evanson from 2326 Central N.E.)			
11-21-61		Packing, Loading and Unloading	$305.75		
11-30-61		Packing, Loading and Unloading at warehouse	412.25		
		Storage - 11-30-61 to 12-30-61 (1 month)			
		6330# @ 60¢ per cwt. per mo.	37.98		
		Warehouse Handling - 6330# @ 60¢ per cwt.	37.98		
				$793.96	

Page Tightly

MINNEAPOLIS, MINN. 8/22/66 19

To: Evanson Insur. Co. / Rice Lake Wis. No. 3581 M

ACCOUNT OF Gordon Evanson (N.W. Holding Co.)

RECEIVED OF

Mohawk Transfer & Storage Company

LOT NO. Lot 7816 THE ARTICLES NAMED BELOW IN APPARENT GOOD ORDER

NO.	DESCRIPTION OF ARTICLES	WEIGHT
1	Tot Htg. Sold Complete for $350.00	
	Paid 8/22/66 Hyt Hoge Co. Mohawk By H. J. Foder	

RECEIVED BY (illegible)

-348-

Harry Amans Invites You To

COME IN EVERY WEEK

For • Savings • Variety • Browsing

Located Half-Block West of the Penney Store

New Shipments — New Savings — Every Week!

Stop by some day when we're unloading our truck. You'll see a variety of merchandise such as you've seldom seen before. Most of it is unclaimed storage items from Twin City warehouses.

There are values for everyone—furniture, appliances, clothing for the entire family in like-new condition, rugs, tools, musical instruments, antiques, glassware and hundreds of other miscellaneous items, some of which can't be told from new.

Come in often—to buy or just to browse around. Our stock changes constantly and if you don't find what you want one week, we could very well have it the next.

WE PROMISE YOU SAVINGS ON EVERY PURCHASE!

WE BUY

- GOOD MODERN FURNITURE
- ANTIQUES
- TOOLS
- COMPLETE HOUSEHOLDS
- WOOD HEATING STOVES
- SMALL OIL BURNERS

AMANS UNCLAIMED STORAGE FURNITURE

27 W. Eau Claire St. Ph. 234-3252 Rice Lake

Bound

5 April 1963

Minneapolis Public Library
300 Nicollet Avenue
Minneapolis 1, Minnesota

Re: Charged to—
David G. Evanson
c/o Mrs. Gordon Evanson

Charged at Central Ave. Branch
Due Dec. 7, 1961

Enclosed please find money order in amount of $24.80 per your request.

Upon return of the Minneapolis Public Library books which were unlawfully seized on 30 November 1961, from my homestead property of 42 years, and presently in storage along with all our personal and household possessions, I shall apply for a refund of the above amount.

Respectfully submitted,

Mrs. Gordon Evanson
Now at: 7 Ortman Street Southeast
Minneapolis 14, Minnesota
Phone: 336-3559

25 JANUARY 1967

Minneapolis Public Library
300 Nicollet Avenue
Minneapolis, Minnesota, 55401

Please advise if the following books have been returned to the Minneapolis Public Library, and if so, on what date, and by whom.

They were Charged to: David G. Evanson
at: Central Ave. Branch
Due Dec. 7, 1961.

B629.29N43.3 e	BEYOND MARS
fB629.29C67 cs	BY SPACE SHIP TO THE MOON
B629.285C88bb	U. S. FIGHTING PLANES
B629.285C77.3 e	BOMBER PLANS THAT MADE HISTORY
B629.275G44 e	RESCUE FROM THE AIR
B629.237C68 ci	OUR FIGHTING JETS
fB629.238B49.1 i	ROCKET AIRCRAFT USA

Thank you very much.

Very truly yours,

Mrs. Gordon L. Evanson
7 Ortman Street Southeast
Minneapolis, Minnesota, 55414

February 2, 1967

We have no record of any of these books being returned. None are on the shelves now. None have been restored to our shelf list.

/s/ Alice J. Johnson
(Mrs.) Alice J. Johnson,
Supervisor of Circulation Department

NOTICE OF SALE TO SATISFY LIEN ON PERSONAL PROPERTY

To each and all of those whose personal property as described is stored under the names and lot numbers below:

You and each of you are hereby notified that on Tuesday, June 12th, 1962, at ten o'clock in the forenoon at Mohawk Transfer & Storage Co., 507—9th Avenue, South, Minneapolis, Minnesota, the goods hereinafter described which are stored in said warehouse and its local branches under your several names, will be sold to the highest bidder for cash at public auction to satisfy the charges which will then be due said Company for packing, transporting and storage of said goods, and such other charges as are valid liens against the goods of any or all of the above mentioned people and for the expense of advertising and sale. The names of the depositors and the property to be sold are listed as follows:

Lot 3960 — Raymond Carr — HHGoods & Personal effects.
Lot 6773 — Schinder Restaurauo — Restaurant Equipment.
Lot 7035 — Mrs. Saul Graf — HHGoods.
Lot 7114 — Mrs. Viola Swendra — HHGoods & Personal effects.
Lot 7285 — Chas. Siddens — HHGoods & Personal effects.
Lot 7322 — Charles Siddens — HHGoods & Personal effects.
Lot 7455 — Slenderella — Merchandise.
Lot 7492 — Larry Rosen — Personal effects.
Lot 7496—Lewis Wood—HHGoods.
Lot 7566—Arlow Jensen—HHGoods & Personal effects.
Lot 7626 — Jack Seigel — HHGoods & Personal effects.
Lot 7663—Clayton Leach—HHGoods & Personal effects.
Lot 7672 — Amherst Tautges — Office furniture.
Lot 7703—Leonard Christianson—HHGoods & Personal effects.
Lot 7767 — Carol Anthony — HHGoods & Personal effects.
Lot 7783 — William W. Foshay — HHGoods.
Lot 7788—B & J Adv. & Dist. Co.—Office Equipment.
Lot 7816 — Gordon Evanson — HHGoods & Personal effects.
Lot 7817—Paul Rosso—HHGoods.
Lot 7405—Lan-O-Lax Co. & Philip I. Dover — Merchandise.

further description of the goods to be sold at this sale under the names and lot numbers above listed: General household goods, personal effects, office furniture, and equipment.

MOHAWK TRANSFER & STORAGE CO.
By HERMAN J. LADIN,
Pres.

Published in Finance and Commerce May 24th, 31st and June 7th, 1962)
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NO. 1101

In the
Supreme Court of the United States
OCTOBER TERM, 1966.

GORDON L. EVANSON AND MELBA P. EVANSON
PAUL DAN ROSSO AND PAULINA M. ROSSO,
PETITIONERS,

VS.

NORTHWEST HOLDING COMPANY,
A MINNESOTA CORPORATION,
RESPONDENT.

PETITION FOR REHEARING OF DENIAL OF PETITION FOR WRIT OF CERTIORARI

PAUL DAN ROSSO
MELBA P. EVANSON
7 Ortman Street Southeast
Minneapolis, Minnesota 55414

In Their Own Behalf
PETITIONERS

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P R E F A C E

T O
THE UNITED STATES SUPREME COURT

The United States LAW WEEK shows :

"35 LW 33 64 4-18-67
FEDERAL COURTS AND PROCEDURE
No. 1101, EVANSON v. NORTHWEST HOLDING CO.

Ruling below (CA 8, 368 F 2d 531) :

FEDERAL DISTRICT COURT HAS NO JURISDICTION OF SUIT TO REVIEW STATE SUPREME COURT DECISION IN WRONGFUL-DETAINER ACTION WHICH, PLAINTIFFS' ALLEGE, RESULTED IN WRONGFUL TAKING OF THEIR HOMESTEAD.

THE ABOVE, AND FOLLOWING CITATIONS, ARE FROM VARIOUS LAW BOOKS, REGARDING THE CASE AT BAR.

THE AUTHOR OF THE ABOVE CITATION IN LAW WEEK, USED THE WORDS, "WRONGFUL-DETAINER ACTION". THIS DOES NOT INDICATE WHETHER THE ACTION BEFORE THE COURT OF INQUIRY, WAS UNLAWFUL ENTRY OR UNLAWFUL DETAINER.

THIS IS UNDERSTANDABLE BECAUSE :

NEITHER THE COMPLAINT, NOR THE HEARING IN CRIMINAL COURT REVEALED WHETHER THE ACTION WAS UNLAWFUL ENTRY OR UNLAWFUL DETAINER.

P R E F A C E

THE CRIMINAL COURT IGNORED THE TIMELY ANSWER, (P. 204A, Petition For a Writ of Certiorari) AND DEMURRER, BY A PLEA OF "NOT GUILTY".

THE CRIMINAL COURT FAILED TO MAKE FINDINGS OF FACT AND CONCLUSIONS OF LAW, AND DID NOT MAKE A WRIT OF RESTITUTION THAT STATED WHAT THE CAUSE OF ACTION WAS BEFORE THE COURT OF INQUIRY.

AFTER ALL STATE COURT REMEDIES WERE EXHAUSTED — PETITIONERS TIMELY REMOVED FROM THE STATE SUPREME COURT, IN ACCORDANCE TO THE REMOVAL STATUTE, 28 USC 1441 ET SEQ., TO THE FEDERAL DISTRICT COURT, FOR AN ADJUDICATION ON THE SUBSTANTIAL STATE AND FEDERAL CLAIMS.

UNDER SEVERAL STATUTES, THE FEDERAL DISTRICT COURT ALSO HAS PENDENT JURISDICTION OF THIS REMOVED ACTION, NAMELY :

PREFACE

THE JUDICIAL SALES STATUTE 28 USC 2001,

THE DIVIL RIGHTS STATUTE 42 USC 1883,

THE THEFT OR ALTERATION OF RECORD OR PROCESS STATUTE 18 USC 1506,

THE POSTAL FRAUD STATUTE 18 USC 1341,

THE CIVIL CONSPIRACY STATUTE 28 USC 1343,

THE FEDERAL QUESTION; AMOUNT IN CONTROVERSY STATUTE 28 USC 1331,

THE CONSPIRACY TO DEFRAUD THE GOVERNMENT WITH RESPECT TO CLAIMS 18 USC 286, 287, and 371,

THE DUE PROCESS CLAUSE, IN U. S. AMENDMENTS FIVE AND FOURTEEN,

THE RIGHT TO BE SECURE IN THEIR PERSONS, HOUSES, PAPERS AND EFFECTS, UNDER U. S. AMENDMENT FOUR.

* * * THE RECORD CLEARLY REVEALS PETITIONERS HERE, HAVE MADE TIMELY COMPLAINTS TO STATE AND FEDERAL SOLICITORS REGARDING ACTS, OMISSIONS, AND TRANSACTIONS COMPLAINED OF IN THE PLEADINGS, AND NO ACTION HAS BEEN TAKEN BY ANY PUBLIC SOLICITOR.

PETITIONERS, AS A MATTER OF RIGHT, MAY MAINTAIN AN ACTION IN THEIR OWN NAME, AGAINST RESPONDENTS.

See: STATE v. VILIAGE OF SPRINDALE, 215 NE 2d 592 (1966)

PREFACE

MASON'S DUNNELL MINNESOTA DIGEST 3rd EDITION,
FEBRUARY, 1964

Prepared by the PUBLISHER'S EDITORIAL STAFF
Copyright 1964 by THE MASON PUBLISHING COMPANY,
FINCH INDUSTRIAL BUILDING ON PARK SQUARE,
ST. PAUL 1, MINNESOTA

SHOWS :

"APPEAL AND ERROR

"296a. APPEAL FROM ORDERS—STATUTE EXCLUSIVE.

APPEALS TO THE SUPREME COURT FROM THE MUNICIPAL COURT OF THE CITY OF MINNEAPOLIS IN UNLAWFUL DETAINER PROCEEDINGS LIE ONLY FROM THE JUDGMENT OF RESTITUTION; NEITHER AN ORDER FOR JUDGMENT NOR AN ORDER DENYING A MOTION TO SET ASIDE A WRIT OF RESTITUTION IS APPEALABLE.

NORTHWEST HOLDING CO. v. EVANSON (1963)
265 Minn. 562, 122 NW 2d 596."

* * * * * *

THE CRIMINAL COURT DID NOT ENTER A JUDGMENT OF RESTITUTION

INSTEAD, FORTY-THREE (43) DAYS LATER, AFTER TERM, A DEPUTY CLERK OF COURT, NOT AUTHORIZED BY ANY STATUTE OR COURT RULE, ISSUED A "WRIT OF RESTITUTION", WITHOUT FINDINGS OF FACT AND CONCLUSIONS OF LAW THAT SHOWED THE Plaintiff, N. W. HOLDING CO., WAS ENTITLED TO THE RIGHT OF POSSESSION OF THE PREMISES; AND WITHOUT SHOWING WHETHER THE ACTION BEFORE THE COURT OF INQUIRY WAS UNLAWFUL ENTRY OR UNLAWFUL DETAINER.

SEE: PAGE 39 TRANSCRIPT - 26 SEPT. 1961

PAGE 55 DECISION AND ORDER - 26 SEPT. 1961

PAGE 56 WRIT OF RESTITUTION - 8 NOV. 1961

PREFACE

CLEARLY, THE RECORD SHOWS, THE MINNESOTA SUPREME COURT, ON APPEAL, HAD JURISDICTION FOR THE PURPOSE OF REVERSING THE JUDGMENT IN ACCORDANCE TO STATUTE 566.04 LIMITATION, AND PURGING THE RECORD.

See: SETTLEMIER v. SULLIVAN. 97 U. S. 444 P. 286A

92 N.W. 2d 569. JUDGMENT KEY 217 P. 289A

of Petition for Writ of Certiorari.

THE MINN. SUPREME COURT, IN ACCORDANCE TO STATUTE, 557.08, FORCIBLE EVICTION AND 557.09, FORCIBLE ENTRY, HAD JURISDICTION TO GRANT THE HOMESTEAD OCCUPANTS AFFIRMATIVE EQUITABLE RELIEF.

THE MINN. SUPREME COURT ALSO HAD JURISDICTION TO REVIEW THE SEVERAL ACTIONS CONSOLIDATED, IN ACCORDANCE TO LAW, AND THE COURT RULES, AND GRANT AFFIRMATIVE EQUITABLE RELIEF.

IN THE MINN. SUPREME COURT, NO ANSWER WAS MADE BY RESPONDENT, N. W. HOLDING CO., OR BY ANY OF THE RESPONDENTS IN THE CONSOLIDATED ACTIONS.

A TIMELY APPLICATION FOR DEFAULT JUDGMENT WAS MADE AGAINST NORTHWEST HOLDING COMPANY, A MINN. CORPORATION.

PREFACE

MASON'S DUNNELL MINNESOTA DIGEST ALSO SHOWS:

"FORCIBLE ENTRY AND DETAINER

"3784. NATURE AND OBJECT OF ACTION.

WHILE THE MUNICIPAL COURT OF MINNEAPOLIS MAY ENTERTAIN JURISDICTION IN AN UNLAWFUL DETAINER ACTION NOTWITHSTANDING THE FACT THAT TITLE TO REAL ESTATE IS INVOLVED, THE COURT'S FUNCTION IS LIMITED TO RESOLVING THE RIGHT TO POSSESSION. IN ORDER EFFECTIVELY TO ASSERT HOMESTEAD RIGHTS, IT WOULD APPEAR NECESSARY TO BRING AN ACTION OF EJECTMENT NOT JUSTICIABLE IN MUNICIPAL COURT. DEFENDANTS IN UNLAWFUL DETAINER ACTION LOST THEIR HOMESTEAD RIGHTS BY FAILING TO PROPERLY APPEAR AND DEFEND IN DAMAGE SUIT, EXECUTION SALE, AND REGISTRATION OF TITLE PROCEEDING.

Northwest Holding Co. v. Evanson (1963)
265 Minn. 562, 122 NW 2d 596."

* * * * * *

IN NORTON v. BECKMAN, 53 MINN. 456, 459 (1893), THE COURT STATED : IN PROCEEDINGS UNDER 1878 G.S. CH. 84, THE PLEADINGS ARE TO BE CONSTRUED, AND ARE TO HAVE THE SAME EFFECT, AS IN A "CIVIL ACTION". WHEN THE ANSWER EXPRESSLY, OR BY FAILING TO DENY, ADMITS THE ALLEGATIONS IN THE COMPLAINT, THE ADMISSION IS EQUIVALENT TO PROOF. Hennessey v. Pederson, 28 MINN. 461.

PREFACE

IN PETSCH v. BIGGS, 31 MINN. 392, THE COURT STATED: SP. LAWS 1891, CH. 53, § 19, subd. 4, PROVIDES THAT THE PRACTICE AND PROCEEDINGS IN ACTIONS UNDER 1878 G.S. CH. 84, SHALL BE THE SAME AS IN JUSTICE COURT; § 18 OF THIS CHAPTER PROVIDES THAT ALL MATTERS IN EXCUSE, JUSTIFICATION AND AVOIDANCE OF THE ALLEGATIONS IN THE COMPLAINT SHALL BE SET UP IN THE ANSWER. THIS MUST BE UNDERSTOOD TO REFER TO MATTERS WHICH PER SE CONSTITUTE AN EXCUSE, JUSTIFICATION OR AVOIDANCE, WHICH OF THEMSELVES, AND WITHOUT AFFIRMATIVE AID FROM A COURT, ENTITLE THE DEFENDANT TO RETAIN THE PRESENT POSSESSION, AND DOES NOT INCLUDE THOSE MATTERS UPON WHICH A PROPER COURT MIGHT AFFORD THE DEFENDANT AFFIRMATIVE RELIEF, AND WHICH GO TO HIS RIGHT TO POSSESSION, ONLY AFTER SUCH RELIEF HAS BEEN GRANTED.

PREFACE

IN BEIGLER v. CHAMBERLIN, 145 MINN. 104, 106(1920)

THE COURT STATED :

IF THE LAND WAS THEN THE HOMESTEAD OF THE DEFENDANT IN THE ACTION, IT WAS EXEMPT FROM SEIZURE AND NO LIEN WAS ACQUIRED BY THE LEVY UNDER THE WRIT. THIS IS SETTLED LAW. IT WAS NOT NECESSARY TO PROTEST THE LEVY. THE DEFENDANT COULD IGNORE A SALE UPON AN EXECUTION ON ANY JUDGMENT THAT COULD BE ENTERED ON THE FINDINGS THAT WERE MADE IN THE CASE, AND AFTERWARDS ASSERT HIS HOMESTEAD RIGHT AS HE HAS DONE IN THIS ANSWER.

"THE STATUTE GIVES THE EXEMPTION ABSOLUTELY, AND WITHOUT MAKING THE RIGHT TO IT DEPENDENT UPON ANY AFFIRMATIVE ACTION UPON THE PART OF THE PERSON CLAIMING IT TOWARDS AN OFFICER LEVYING OR ABOUT TO LEVY UPON IT." FERGUSON v. KUMLER, 25 MINN. 183.

THE EDITORIAL STAFF OF DUNNELL's DIGEST, IGNORED OR OVERLOOKED THE SETTLED LAW. THE SAME MATTERS IN EXCUSE, ETC., MAY BE USED IN FORCIBLE ENTRY AND DETAINER, AS IN EJECTMENT.

- - - - - - - - - - - - - - - - - - -

MASON'S DUNNELL MINN. DIGEST ALSO SHOWS :

"378&a JURISDICTION AND PROCEDURE IN GENERAL

"NEITHER AN ORDER FOR JUDGMENT NOR AN ORDER DENYING A MOTION TO SET ASIDE A WRIT OF RESTITUTION IS APPEALABLE.

Northwest Holding Co. v. Evanson (1963)
265 Minn. 562, 122 NW 2d 596."

THE MINN. RULES OF CIVIL PROCEDURE APPLY TO FORCIBLE ENTRY AND UNLAWFUL DETAINER, THE SAME AS ANY OTHER CIVIL ACTION.

PREFACE

THE M.R.C.P., RULE 54.01, JUDGMENT AS USED IN THESE RULES INCLUDES A DECREE AND MEANS THE FINAL DETERMINATION OF THE RIGHTS OF THE PARTIES IN AN ACTION OR PROCEEDING.

23 CYC. 785 ORDER FOR JUDGMENT.

THE APPLICATION FOR JUDGMENT, IF SUCCESSFUL, SHOULD BE FOLLOWED BY AN ORDER OF THE COURT DIRECTING THE CLERK TO ENTER A JUDGMENT IN THE FORM AND TERMS SPECIFIED, AND A MERE EXPRESSION OF THE COURT'S OPINION THAT A DESIGNATED PARTY IS ENTITLED TO RECOVER IS NOT SUFFICIENT.

BLACK'S LAW DIC., 4TH ED., P. 1247

FINAL ORDER — ONE WHICH EITHER TERMINATES THE ACTION ITSELF, OR DECIDES SOME MATTER LITIGATED BY THE PARTIES, OR OPERATES TO DIVEST SOME RIGHT; OR ONE WHICH COMPLETELY DISPOSES OF THE SUBJECT-MATTER AND THE RIGHTS OF THE PARTIES.

BLACK'S LAW DIC., 4TH ED., P. 1785

"APPEAL" IS A PROCESS OF CIVIL LAW ORIGIN THAT ENTIRELY REMOVES CAUSE TO APPELLATE COURT SUBJECTING FACTS AS WELL AS LAW TO REVIEW AND RETRIAL.

THE TIMELY APPEAL TO THE MINN. SUPREME COURT, REMOVED THE CAUSE FOR THE PURPOSE OF PURGING THE RECORDS. THE PROCEEDING IN THE CRIMINAL COURT WAS PROHIBITED BY STATUTE 566.04.

PREFACE

MASON'S DUNNELL MINN. DIGEST ALSO SHOWS :

"HOMESTEAD
IN GENERAL

4196. TITLE ESSENTIAL TO SUPPORT EXEMPTION.

74 ALR 2d 1355 (estate or interest in real property to which a homestead claim may attach).

* * N O T E * *
THE RECORD SHOWS
PETITIONERS ENTERED INTO ORIGINAL POSSESSION PEACEABLY, UNDER TITLE IN: NOVEMBER OF THE YEAR 1919, AND HAVE BEEN IN CONTINUOUS, UNINTERRUPTED, NOTORIOUS, EXCLUSIVE, PEACEABLE POSSESSION OF THE HOMESTEAD UNTIL : THE FORCIBLE ENTRY AND THE FORCIBLE EVICTION AND THE FORCIBLE SEIZURE UNDER "COLOR OF LAW", BY RESPONDENTS ON NOVEMBER 30, 1961.

MINN. STATUTES CH. 566.04 PROHIBITS RESTITUTION UNDER THIS CHAPTER, OF THOSE IN QUIET POSSESSION FOR THREE YEARS NEXT BEFORE THE FILING OF THE COMPLAINT.

IN MASTIN v. MAY, 127 MINN. 93 (1914)

WHERE THE ORIGINAL POSSESSION WAS TAKEN PEACEABLY AND UNDER CLAIM OF RIGHT, IS NOT SUFFICIENT TO AUTHORIZE PROCEEDINGS UNDER SECTION 7657, G.S. 1913. EJECTMENT IS THE REMEDY IN SUCH CASES.

PREFACE

MASON'S DUNNELL MINN. DIGEST ALSO SHOWS :

"LIABILITY FOR DEBTS

"4208b. CREDITORS ACQUIRE NO RIGHTS BY UNAUTHORIZED LEVY.

THE STATE IS PARTICULARLY SOLICITOUS OF THE RIGHTS OF HOMESTEADERS, AND HAS INDICATED THAT EVEN AFTER AN EXECUTION SALE AN OWNER MAY HAVE HIS DAY IN COURT TO PROTECT HIS CLAIM.

Northwest Holding Co. v. Evanson (1963)
265 Minn. 562, 122 NW 2d 596.

PETITIONERS AGREE THIS CITATION CONFORMS WITH THE SETTLED LAW.

* * * * * *

"ABANDONMENT, WAIVER, FORFEITURE AND ESTOPPEL

"4217. WAIVER AND ESTOPPEL - CONFESSION OF JUDGMENT.

DEFENDANTS IN UNLAWFUL DETAINER ACTION LOST THEIR HOMESTEAD RIGHTS BY FAILING TO PROPERLY APPEAR AND DEFEND IN DAMAGE SUIT, EXECUTION SALE, AND REGISTRATION OF TITLE PROCEEDING.

Northwest Holding Co. v. Evanson (1963)
265 Minn. 562, 122 NW 2d 596.

SEE: 25 MINN. 183 (1878) FERGUSON v. Kumler.

HOMESTEAD EXEMPTION IS ABSOLUTE - THE STATUTE GIVES THE HOMESTEAD EXEMPTION ABSOLUTELY, WITHOUT MAKING THE RIGHT TO IT DEPENDENT UPON ANY AFFIRMATIVE ACTION UPON THE PART OF THE PERSON CLAIMING IT TOWARD AN OFFICER LEVYING UPON IT, OR ABOUT TO LEVY UPON IT.

HOMESTEAD RIGHTS ARE ACQUIRED BY ONE ENTERING INTO PEACEABLE POSSESSION OF THE PREMISES UNDER TITLE, AND OCCUPYING THE PREMISES AS A DWELLING.

* * * * * * *

MINNESOTA STATUTES ANNOTATED SHOWS :

"566.01 FORCIBLE ENTRY AND UNLAWFUL DETAINER.
3. COURTS

WHILE MUNICIPAL COURT OF MINNEAPOLIS MAY ENTERTAIN JURISDICTION OF UNLAWFUL DETAINER ACTION NOTWITHSTANDING FACT THAT TITLE TO REALTY IS INVOLVED, ITS FUNCTION IS LIMITED TO RESOLVING RIGHT TO POSSESSION AND CANNOT DETERMINE HOMESTEAD RIGHTS. Northwest Holding Co. v. Evanson, 1963, 265 Minn. 562, 122 N.W. 2d 596.

In NORTON v. BECKMAN, 53 MINN. 459 (1893)

THE COURT STATED: IN PROCEEDINGS UNDER 1878 G.S. CH. 84, THE PLEADINGS ARE TO BE CONSTRUED, AND ARE TO HAVE THE SAME EFFECT, AS IN A "CIVIL ACTION". WHEN THE ANSWER EXPRESSLY, OR BY FAILING TO DENY, ADMITS THE ALLEGATIONS IN THE COMPLAINT, THE ADMISSION IS EQUIVALENT TO PROOF. Hennessey v. Pederson, 28 Minn. 461.

In HENNESSEY v. PEDERSON, 28 MINN. 461, AT 463.

...THE JUDGMENT OF RESTITUTION MUST BE BASED UPON A FINDING, WHICH IN ITS TURN MUST BE BASED UPON INQUIRY, UPON A HEARING, UPON A TRIAL, OF THE COMPLAINT. THIS CANNOT MEAN ANYTHING LESS THAN

THAT THE COMPLAINANT MUST PROVE HIS CASE, OR, IN OTHER WORDS, MUST PROVE ENOUGH OF HIS COMPLAINT TO MAKE OUT HIS RIGHT TO RESTITUTION. TO THIS END HE MUST ADDUCE EVIDENCE, AND, IN THE ABSENCE OF IT, THE MAGISTRATE HAS NO RIGHT TO ENTER JUDGMENT FOR THE RESTITUTION SOUGHT....

PATTON TITLES SECTION 522 — West Publ. Co. TRANSFERS OF TITLE BY DECREE OF COURT.

THE VALIDITY OF ALL OFFICIAL CONVEYANCES DEPENDS DIRECTLY OR INDIRECTLY UPON SOME JUDGMENT OR DECREE. IF THE LATTER IS LACKING, OR IS INVALID, THE CONVEYANCE, TOGETHER WITH ANY INTERMEDIATE WRIT OR SALE, IS VOID, AND NO TITLE PASSES TO THE PURCHASER.

13 N. W. 71 97 U. S. 444 101 N.W. 293.

THE DEFENDANTS (PETITIONERS HERE), IN MPLS. CRIMINAL COURT, BY TIMELY ANSWER, ATTACHED FOR THE CRIMINAL COURT, A COPY OF THE HON. JUDGE PAUL S. CARROLL'S DATED JUNE 24, 1958 ORDER. THIS ORDER DENIED PLAINTIFF WILLIAM HOLMES' MOTION FOR SUMMARY JUDGMENT AGAINST PAUL ROSSO. STAY: TEN (10) DAYS.

THIS ORDER HAS NOT BEEN APPEALED FROM, OR SET-ASIDE OR VACATED.

SEE: M.R.C.P., RULE 56.04, 18 USC 1506
PAGE 223A, Petition for Writ of Certiorari.

PREFACE

MINNESOTA RULES OF CIVIL PROCEDURE
RULE 56.04

CASE NOT FULLY ADJUDICATED ON MOTION.

"If,...judgment is not rendered upon the whole case ....the court at the hearing of the motion,..... shall thereupon make an order....directing such further proceedings in the action as are just."

JUDICIAL NOTICE: THE JUDGMENT "ORDERED THAT SAID MOTION BE AND THE SAME HEREBY IS IN ALL THINGS DENIED."

THE CASE, HOLMES vs. ROSSO, HENN. CTY. DIS. COURT NO. 533990, WAS TERMINATED.

THE COURT DID NOT MAKE AN ORDER DIRECTING SUCH FURTHER PROCEEDINGS. THE DATED JUNE 24, 1958 ORDER WAS A FINAL ORDER BECAUSE NO APPEAL OR ANY OTHER PROCEEDING WAS TAKEN.

PREFACE

MINNESOTA STATUTES ANNOTATED SHOWS:

566.12
APPEAL; STAY

6. APPEALS TO SUPREME COURT

APPEALS TO THE SUPREME COURT FROM MUNICIPAL COURT OF MINNEAPOLIS IN UNLAWFUL DETAINER PROCEEDINGS LIE ONLY FROM JUDGMENTS OF RESTITUTION, AND NEITHER AN ORDER FOR JUDGMENT NOR ORDER DENYING MOTION TO SET ASIDE WRIT OF RESTITUTION IS APPEALABLE. Northwest Holding Co. v. Evanson, 1963, 265 Minn. 562, 122 N.W. 2d 596.

PETITIONERS ANSWER THIS CITATION, THE SAME, AS THE ABOVE CITATION ON: PREFACE xii.

THE MINNESOTA SUPREME COURT HAD JURISDICTION ON APPEAL, TO PURGE THE RECORD, IN ACCORDANCE TO THE MINN. ST. CH. 566.04 LIMITATION.

I N C O N C L U S I O N

THIS PETITION FOR REHEARING ON WRIT OF CERTIORARI, IS THE LAST CLEAR CHANCE TO HAVE THESE LAW DECISIONS AND CITATIONS, REVIEWED AND REVISED AND CORRECTED TO FOLLOW THE SETTLED LAW.

PREFACE

PETITIONERS' PETITION FOR WRIT OF CERTIORARI, AS WELL AS THE RECORD IN THE U. S. DISTRICT COURT OF MINNESOTA, ARE REPLETE WITH SUBSTANTIAL PLEADINGS TO SUPPORT SUBSTANTIAL STATE AND FEDERAL CLAIMS, AND CALL THE COURT'S ATTENTION TO THE SETTLED LAW.

IT IS IMPERATIVE, THAT THE U. S. SUPREME COURT GRANT THE PETITION FOR REHEARING, AS PRAYED FOR, AND MAINTAIN SETTLED, RECOGNIZED, CONSTITUTIONAL LAW.

THE RESPONDENTS MADE NO ANSWER

IN ANY

OF THE FEDERAL COURTS, OR IN

THE STATE SUPREME COURT REMOVED

FROM.

THE FEDERAL AND STATE CONSTITUTION, AND ALL THE STATUTES, STATE AND FEDERAL, AS WELL AS ALL THE STATE AND FEDERAL REPORTS, AND THE COMMON LAW,

S U P P O R T

PETITIONERS' RIGHT TO THE PEACEABLE POSSESSION OF THE HOMESTEAD PREMISES, TAKEN UNDER THE "COLOR OF LAW", BY FORCE, ORGANIZED VIOLENCE AND TERROR, ON NOVEMBER 30, 1961. SEE: In DIVIDE CREEK IRR. DIST. v. HOLLINGSWORTH (10 Cir.) 72 F (2d) 859, 863. 96 A.L.R. 937, 942.

IN THE

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1966

No. 1101

GORDON L. EVANSON AND MELBA P. EVANSON

PAUL DAN ROSSO AND PAULINA M. ROSSO,

PETITIONERS,

VS.

NORTHWEST HOLDING COMPANY,

A MINNESOTA CORPORATION,

RESPONDENT.

PETITION FOR REHEARING ON

PETITION FOR A WRIT OF CERTIORARI

To the United States Court of Appeals
for the Eighth Circuit.

I. PETITION FILED - NO RESPONSE OR OBJECTION.

On 27 FEBRUARY 1967, Petitioner filed a timely PETITION FOR WRIT OF CERTIORARI, with the Clerk of the United States Supreme Court.

THE RECORD (4-63 Civ. 457) WAS FORWARDED BY THE CLERK OF U. S. DISTRICT COURT, TO THE CLERK OF THE UNITED STATES SUPREME COURT, IN ACCORDANCE TO THE CRIMINAL COURT RULES.

PETITIONERS FILED WITH THE CLERK OF COURT, AN AFFIDAVIT OF PROOF OF SERVICE OF THE PETITION FOR WRIT OF CERTIORARI, AND ALSO AN AFFIDAVIT OF PROOF OF SERVICE, NOTIFYING RESPONDENTS OF THE FILING DATE OF PETITION FOR WRIT OF CERTIORARI; DOCKET NUMBER OF THE CASE; AND THE CONTENTS OF THE RECORD FILED IN THE COURT.

PETITIONERS, AFTER SERVICE OF THE PETITION, UPON THE RESPONDENT, NORTHWEST HOLDING COMPANY, A MINNESOTA CORPORATION, AS WELL AS UPON RESPONDENTS IN THE CONSOLIDATED AND INTERLOCKED SERIES OF TRANS-ACTIONS, DID NOT RECEIVE A RESPONSE OR OBJECTION THAT THE ALLEGED CLAIMS APPEAR TO BE IMMATERIAL AND MADE SOLELY FOR THE PURPOSE OF OBTAINING JURISDICTION AND/OR ARE WHOLLY INSUBSTANTIAL AND FRIVOLOUS AND/OR ARE INADVERTENTLY AND IMPROVIDENTLY MADE OR ALLEGED UNDER A MISAPPREHENSION OF THE FACTS.

II. PETITION DENIED.

PETITIONERS RECEIVED A LETTER DATED APRIL 17, 1967, FROM THE CLERK OF COURT, AS FOLLOWS:

"Dear Sir:

"The Court today denied the petition for writ of certiorari in the above-entitled case.

Very truly yours,
JOHN F. DAVIS, Clerk
By
/s/ C. T. Lyddan
Assistant

Paul Dan Rosso, Esq.
7 Ortman St. S.E.
Minneapolis, Minn. 55414
AIRMAIL"

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III. VOID PROCEEDINGS.

THE PETITIONERS ON REHEARING, WILL BRING TO THE COURT'S ATTENTION, THE SEVERAL PROCEEDINGS IN THE STATE COURTS WHICH WERE VOID, AND HAD NO EFFECT AND COULD NOT FORM A BASIS FOR THE RIGHT OF POSSESSION OF HOMESTEAD PROPERTY, NOR A BASIS FOR TITLE TO THE HOMESTEAD PREMISES, NOR A BASIS TO INVADE AND SEIZE THE HOMESTEAD PROPERTY, NOR A BASIS TO SEIZE THE EXEMPT PERSONAL AND HOUSEHOLD POSSESSIONS, NOR A BASIS TO SEIZE THE RENTALS FROM THE TENANTS IN POSSESSION OF THE PREMISES UNDER THEIR LANDLORD'S TITLE,

NOR A BASIS TO OBTAIN A $28,000 MORTGAGE FROM TWIN CITY FEDERAL SAVINGS & LOAN ASSOCIATION, SECURED BY A TORRENS TITLE IN DEROGATION OF THAT OF THE REGISTERED HOMESTEAD OWNER, NOR THE BASIS FOR THE SEVERAL ALLEGED TRANSFERS OF THE TORRENS TITLE IN DEROGATION OF THAT OF THE REGISTERED HOMESTEAD OWNER,

NOR A BASIS TO TAKE AND CARRY AWAY THE GARAGES AND CONTENTS THEREIN, ON THE REAR OF THE HOMESTEAD LOT,

NOR THE BASIS TO HOLD PAUL DAN ROSSO IN HENNEPIN COUNTY JAIL FOR TEN (10) DAYS FOR REFUSING TO ANSWER INTERROGATORIES BEFORE AN EMPLOYEE OF PLAINTIFF'S ATTORNEY,

NOR A BASIS TO SEIZE THE JOINT SAVINGS ACCOUNT OF PAUL ROSSO AND PAULINA M. ROSSO,

NOR THE BASIS TO FILE FALSE INSTRUMENTS IN THE PUBLIC RECORDS,

NOR THE BASIS TO SELL OVER 6,000 POUNDS OF THE HOMESTEAD OWNERS' LIFELONG EXEMPT PERSONAL POSSESSIONS AND HOUSEHOLD GOODS, TO A FURNITURE DEALER IN RICE LAKE, WISCONSIN, ON AUGUST 22, 1966.

IV. IN LEDWEIN v. ROSSO

HENN. CTY. DIS. CT. # 532205

NO FINDINGS OF FACT AND CONCLUSIONS OF LAW WERE MADE BY THE COURT; NOR, DID THE COURT MAKE AN ORDER DIRECTING THE CLERK, TO ENTER A JUDGMENT IN THE FORMS AND TERMS SPECIFIED. 23 CYC. 785, MINN. RULES OF CIVIL PROCEDURE, RULE 52.

42 MINN. 457 CHICKERING & SONS v. WHITE.

AN ORDER FOR JUDGMENT WITHOUT FINDINGS CANNOT STAND.

AN EXECUTION PROCURED BY PLAINTIFF'S ATTORNEY FROM THE CLERK OF COURT WAS VOID BECAUSE NO JUDGMENT WAS ENTERED BY THE COURT.

V. HOLMES v. ROSSO

HENN. CTY. DIS. CT. # 533990

PLAINTIFF HOLMES MADE MOTION FOR SUMMARY JUDGMENT, THAT RESULTED IN THE FOLLOWING ORDER:

"ORDERED that said motion be and the same hereby is in all things denied.
Stay 10 days Dated JUNE 24, 1958
BY THE COURT: s/ Paul S. Carroll
Judge of the District Court"

THIS ORDER HAS NOT BEEN APPEALED FROM, OR SET-ASIDE OR VACATED. THE CASE WAS FULLY ADJUDICATED ON MOTION AND TERMINATED FURTHER PROCEEDINGS IN THE COURT.
See: M.R.C.P., RULE 56.04, 18 USC 1506
Page 223A, Petition for Writ of Certiorari.

AN EXECUTION PROCURED BY PLAINTIFF'S ATTORNEY FROM THE CLERK OF COURT WAS VOID BECAUSE THE PROCEEDINGS WERE TERMINATED BY THE COURT.

VI: LEDWEIN v. PAUL ROSSO; DAN ROSSO; PAULINE ROSSO; & WILLIAM HOLMES

HENN. CTY. DIS. CT. # 547205

A SPURIOUS COMPLAINT WAS SERVED UPON DAN ROSSO, AND COPIES LEFT FOR PAUL ROSSO AND PAULINA M. ROSSO.

THE SPURIOUS COMPLAINT ALLEGED FRAUDULENT TRANSFER OF THE HOMESTEAD PROPERTY, AND CLAIMED JUDGMENT LIENS UPON THE HOMESTEAD, AND ALSO CLAIMED PLAINTIFF HAD ATTORNEY LIENS UPON THE HOMESTEAD.

A TIMELY ANSWER WAS MADE BY ATTORNEY HENRY JOHNSON, REPRESENTING ROSSOS. (A GENERAL DENIAL).

NO FOLLOW-UP SERVICE WAS EVER MADE UPON ANY OF THE DEFENDANTS, A JURISDICTIONAL PREREQUISITE IN MINNESOTA.

A DEFAULT JUDGMENT WAS ENTERED WITHOUT JURISDICTION, AND WITHOUT NOTICE TO THE DEFENDANTS ROSSOS.

PLAINTIFF'S ATTORNEY OBTAINED EXECUTION WHICH WAS RETURNED UNSATISFIED.

VII. WILLIAM HOLMES V. PAUL ROSSO

UNLAWFUL DETAINER CASE # 32765

On 14 OCTOBER 1960, WILLIAM HOLMES INSTITUTED A SPURIOUS UNLAWFUL DETAINER ACTION AGAINST PAUL ROSSO, TO GAIN POSSESSION OF A BUILDING LOCATED AT 208 EAST HENNEPIN AVENUE, MINNEAPOLIS, MINNESOTA.

THE COMPLAINT ALLEGED PLAINTIFF HOLMES HAD SHERIFF'S TITLE TO THE BUILDING, AND PAUL ROSSO HAD REFUSED TO VACATE AFTER A MAILED NOTICE TO VACATE, FROM PLAINTIFF'S ATTORNEY.

THE COURT FOUND PAUL ROSSO "GUILTY", WITHOUT FINDINGS OF FACT AND CONCLUSIONS OF LAW.

ATTEMPTS BY A MR. WALTER B. ERICKSON, EXHIBITING A MINNEAPOLIS POLICE BADGE, TO OBTAIN POSSESSION OF THE BUILDING, WERE UNSUCCESSFUL.

VIII. IN THE MATTER OF THE APPLICATION OF WILLIAM HOLMES TO REGISTER THE TITLE TO CERTAIN LAND

HENNEPIN COUNTY DISTRICT CT. # 14838

ON 5 APRIL 1961, A NEWSPAPER CLIPPING WAS SERVED UPON MELBA P. EVANSON, AND A COPY LEFT FOR GORDON EVANSON.

ON 5 APRIL 1961, A NEWSPAPER CLIPPING WAS SERVED UPON PAULINA M. ROSSO, AND A COPY WAS LEFT FOR PAUL DAN ROSSO.

TIMELY ANSWERS TO LAND REGISTRATION #14838, WERE MADE BY EVANSONS AND ROSSOS, AND SERVED BY CERTIFIED MAIL TO THE CLERK OF HENN. COUNTY DISTRICT COURT.

SEE: PAGES 327A, 328A, and 329A, for ANSWERS (Petition for Writ of Certiorari)

NO FOLLOW-UP SERVICE WAS EVER MADE UPON DEFENDANTS TO VEST THE COURT WITH JURISDICTION, A PREREQUISITE IN MINNESOTA. RULE 38.03.

ALMOST FOUR (4) MONTHS AFTER SERVICE OF THE SUMMONS, ON 2 AUGUST 1961, THE SHERIFF'S RETURN WAS FILED BY THE DEPUTY CLERK OF COURT, A.C. HOPPER.

144 N.E. 2d 469 PLAINTIFF FILED...ACTION...AND NO PRAECIPE FOR SERVICE OF THE SUMMONS WAS FILED...THERE WAS NO "PENDING ACTION".

ON 2 AUGUST 1961, AN AFFIDAVIT OF NO ANSWER WAS MADE BY THE DEPUTY CLERK OF COURT, A.C. HOPPER.

ON 8 AUGUST 1961, THE COURT ENTERED DEFAULT JUDGMENT, WITHOUT A HEARING, AND WITHOUT NOTICE TO THE HOMESTEAD OCCUPANTS, AS REQUIRED BY THE M.R.C.P., RULE 77.04.

THE JUDGMENT ENTERED BY THE COURT WAS VOID UPON ITS FACE, BECAUSE OF MINNESOTA STATUTES 510, HOMESTEAD EXEMPTIONS; 508.02 ; THE MINN. RULES OF CIV. PRC. RULE 38.03; 55.01(3), AND IN CONFLICT WITH THE RECORDS AND THE FEDERAL STATUTES; JUDGE PAUL CARROLL'S ORDER DATED 24 JUNE 1958, NO. 533990, OF "DENIED ALL THINGS"; 18 USC 1506, AND IN CONFLICT WITH JUDGE EARL J. LYONS' PERSONAL KNOWLEDGE, THAT THE PREMISES DESCRIBED IN THE LAND REGISTRATION PROCEEDINGS, WERE THE NOTORIOUS, EXCLUSIVE, HOMESTEAD PREMISES OF THE DAN ROSSO FAMILY.

NO TITLE TO PROPERTY PASSES BY A SALE UNDER AN EXECUTION ISSUED UPON SUCH A JUDGMENT, OUT OF TERM.

NO PRAECIPE FOR SERVICE OF THE SUMMONS WAS FILED FOR ALMOST FOUR (4) MONTHS; THE COMPLAINT LAY DORMANT FOR ALMOST FOUR (4) MONTHS; THE TERM OF COURT HAD EXPIRED — WHEN THE ALLEGED DEFAULT OCCURRED ON APRIL 25, 1961. [redacted]

M.R.C.P. RULE 55 DEFAULT. 55.01 Judgment.

(3) IF OTHER RELIEF THAN THE RECOVERY OF MONEY BE DEMANDED AND THE TAKING OF AN ACCOUNT, OR THE PROOF OF ANY FACT, BE NECESSARY TO ENABLE THE COURT TO GIVE JUDGMENT, IT MAY TAKE OR HEAR THE SAME OR ORDER A REFERENCE FOR THAT PURPOSE, AND ORDER JUDGMENT ACCORDINGLY.

NO PROOF OF ANY FACTS
IN THE TORRENS PROCEEDINGS

The WILLIAM HOLMES' APPLICATION TO REGISTER LAND TITLE NO. 14838, CONSTITUTES THE FILING OF A LAWSUIT AGAINST ALL PERSONS NAMED THEREIN.

IF HOLMES' APPLICATION WAS SUCCESSFUL IN PROVING THAT HE IS THE OWNER OF THE LAND, THE COURT ENTERS AN ORDER SO FINDING, AND STATING ALSO THE MORTGAGES, LIENS, RESTRUCTIONS, ETC., TO WHICH SAID TITLE IS SUBJECT.

THE COURT ALSO ORDERS THE REGISTRAR OF TITLES TO REGISTER SUCH TITLE.

THE TORRENS CERTIFICATE PURPORTS TO BE CONCLUSIVE PROOF THAT THE TITLE IS AS THEREIN STATED, BUT, AS IN THE CASE OF OTHER EVIDENCES OF TITLE, THERE ARE EXCEPTIONS AND OBJECTIONS WHICH THE TORRENS CERTIFICATE DOES NOT COVER.

OBJECTIONS AND EXCEPTIONS TO THE TORRENS CERTIFICATE.

HOMESTEAD RIGHTS ARE ABSOLUTE, IN ACCORDANCE TO MINNESOTA CONSTITUTION, ARTICLE 1, SEC. 12, AND MINN. STATUTES CH. 510, HOMESTEAD EXEMPTIONS.

THE PETITIONERS, ARE NOT "TENANTS AT SUFFERANCE", THAT HAVE COME INTO POSSESSION OF LAND BY LAWFUL TITLE, AND NOW HOLD OVER BY WRONG, AFTER THE DETERMINATION OF THEIR INTEREST IN A TORRENS PROCEEDING.

THE TORRENS PROCEEDING MADE NO DETERMINATION AND/OR FINDINGS, THAT THE PERSONS IN POSSESSION OF THE DWELLING PREMISES WERE, OR WERE NOT, IN POSSESSION AS FEE OWNERS, OR, THE PROPERTY WAS, OR WAS NOT, OF HOMESTEAD CHARACTER.

THE TORRENS PROCEEDINGS MADE NO DETERMINATION OR FINDINGS THAT:

THE DATED JUNE 24, 1958 O R D E R "DENIED ALL THINGS, STAY 10 DAYS", THAT WAS NOT APPEALED FROM, SET-ASIDE, OR VACATED, WAS OR WAS NOT A FINAL ORDER, UNDER M.R.C.P. RULE 56.04, AND 18 USC 1506.

THE TORRENS PROCEEDINGS MADE NO DETERMINATION OR FINDINGS THAT:

WILLIAM HOLMES COULD REGISTER LAND IN DEROGATION OF THAT OF THE REGISTERED BY WARRANTY DEED, HOMESTEAD OWNER, MELBA P. EVANSON. M.S. Ch.508.02.

THE TORRENS PROCEEDINGS MADE NO DETERMINATION OR FINDINGS THAT:

WILLIAM HOLMES HAD A WORKMAN'S OR MATERIAL-MAN'S LIEN UPON THE EXEMPT HOMESTEAD PROPERTY. M. S. CH. 510.

THE TORRENS PROCEEDINGS MADE NO DETERMINATION OR FINDINGS THAT:

PERSONAL SERVICE IN ACCORDANCE TO THE COMMON LAW, AS GUARANTEED BY THE NORTHWEST ORDINANCE WAS MADE UPON THE HOMESTEAD OCCUPANTS, GORDON L. EVANSON AND PAUL DAN ROSSO.

THE TORRENS PROCEEDINGS MADE NO DETERMINATION OR FINDINGS THAT:

THAT HOMESTEAD OWNER'S RENTAL AGREEMENT WOULD TERMINATE WITH STORE TENANT IN PORTION OF HOMESTEAD, MR. H. H. WEESE, ON JULY 1, 1961, AND FURTHER RENTALS SHOULD BE PAID TO A STRANGER, MR. WILLIAM HOLMES.

THE TORRENS PROCEEDINGS MADE NO DETERMINATION OR FINDINGS THAT:

THE HOMESTEAD OWNER'S RENTAL AGREEMENT WOULD TERMINATE WITH STORE TENANT IN PORTION OF HOMESTEAD, MRS. FLORENCE MADY, ON OCTOBER 1, 1961, AND FURTHER RENTALS SHOULD BE PAID TO A STRANGER, MR. WILLIAM HOLMES.

THE TORRENS PROCEEDINGS MADE NO DETERMINATION OR FINDINGS THAT:

THE HOMESTEAD OWNER'S RENTAL AGREEMENT WOULD TERMINATE WITH MR. WILLIAM HIRSCH, TENANT OF PORTION OF REAR HOMESTEAD LOT, ON DECEMBER 1, 1961, AND FURTHER RENTALS SHOULD BE PAID TO A STRANGER, MR. WILLIAM HOLMES.

THE TORRENS PROCEEDINGS MADE NO DETERMINATION OR FINDINGS THAT:

THE HOMESTEAD OWNER AND FAMILY'S RIGHT OF POSSESSION OF THE HOMESTEAD WOULD TERMINATE, UPON SERVICE OF A CERTIFIED LETTER DATED AUGUST 18, 1961,

"Gordon Evanson and Melba P. Evanson
2326 Central Avenue N.E.
Minneapolis, Minnesota

Dear Gordon Evanson and Melba P. Evanson:

"This is to advise that I am the attorney for the Northwest Holding Company which has purchased the property at 2326 Central Avenue NE. and that you are hereby notified to vacate the premises that you are now occupying at this address within seven days from receipt of this letter.

"If you have not vacated the premises by that time, I shall commence whatever legal proceedings are necessary to secure possession of the premises for my client.

Very truly yours,
/s/ I. Mirviss I. Mirviss CERTIFIED MAIL
RETURN RECEIPT REQUESTED"

THE TORRENS PROCEEDINGS MADE NO DETERMINATION OR FINDINGS THAT :

THE DECREE OF REGISTRATION ENTERED AUGUST 8, 1961, IF NOT CONTESTED WITHIN SIX (6) MONTHS, WOULD BE FINAL ON FEBRUARY 8, 1962, AND THE RIGHTS OF THE HOMESTEAD OCCUPANTS WOULD BE TERMINATED BY A FINAL DECREE.

THE TORRENS PROCEEDINGS MADE NO DETERMINATION OR FINDINGS THAT :

VALID SERVICE WAS MADE FOR A PURELY PERSONAL JUDGMENT, WHEN : PERSONAL SERVICE WAS MADE ON 5 APRIL 1961, UPON GORDON L. EVANSON AND PAUL ROSSO, BY LEAVING A COPY AT THEIR USUAL PLACE OF ABODE. M.R.C.P., RULE 4.03(a), WITH SOME PERSON OF SUITABLE AGE AND DISCRETION THEN RESIDING THEREIN, F.R.C.P., RULE 4(d)(1).

AND,

ON AUGUST 2, 1961, THE SHERIFF FILING THE PRAECIPE OF SERVICE, WITH THE CLERK OF COURT. M.R.C.P., RULE 4.06. "...FAILURE TO MAKE PROOF OF SERVICE SHALL NOT AFFECT THE VALIDITY OF THE SERVICE."

FEDERAL RULES OF CIVIL PROCEDURE
RULE 4(g)

"...FAILURE TO MAKE PROOF OF SERVICE DOES NOT AFFECT THE VALIDITY OF THE SERVICE."

A SUBSTANTIAL DEVIATION FROM THE COMMON LAW.

UNDER THE NORTHWEST ORDINANCE OF 1787, ARTICLE II, "THE INHABITANTS OF THE SAID TERRITORY SHALL ALWAYS BE ENTITLED TO... JUDICIAL PROCEEDINGS ACCORDING TO THE COURSE OF THE COMMON LAW."

PETITIONERS BELIEVE, THE COMMON LAW SHOULD BE COMPLIED WITH IN JUDICIAL PROCEEDINGS INVOLVING PERSONAL JUDGMENTS. IN CONNECTION THEREWITH, PETITIONERS C L A I M :

M.R.C.P., RULE 4.03 (a) AND F.R.C.P. 4d(1) ARE UNCONSTITUTIONAL IN PART, NAMELY :

"...OR BY LEAVING A COPY AT HIS USUAL PLACE OF ABODE WITH SOME PERSON OF SUITABLE AGE AND DISCRETION THEN RESIDING THEREIN."

AND ALSO CLAIM:

M.R.C.P., RULE 4.06 AND F.R.C.P., RULE 4(g) ARE UNCONSTITUTIONAL IN PART, NAMELY :

"...FAILURE TO MAKE PROOF OF SERVICE SHALL NOT AFFECT THE VALIDITY OF THE SERVICE."

F.R.C.P., RULE 24(c)

"...WHEN THE CONSTITUTIONALITY OF AN ACT OF CONGRESS AFFECTING THE PUBLIC INTEREST IS DRAWN IN QUESTION IN ANY ACTION TO WHICH THE UNITED STATES OR AN OFFICER, AGENCY, OR EMPLOYEE THEREOF IS NOT A PARTY, THE COURT SHALL NOTIFY THE ATTORNEY GENERAL OF THE UNITED STATES AS PROVIDED IN TITLE 28, U.S.C., § 2403."

M.R.C.P., RULE 24.04

"...THE PARTY ASSERTING THE UNCONSTITUTIONALITY OF THE ACT SHALL NOTIFY THE ATTORNEY GENERAL..."

SETTLEMIER v. SULLIVAN, 97 U. S. 444 (1878)

1. THAT THE COURT, BY SUCH SERVICE, ACQUIRES NO JURISDICTION OVER THE PERSON OF A., AND ITS JUDGMENT WAS VOID.

AT PAGE 447.

NO THEORETICAL UNITY OF HUSBAND AND WIFE CAN MAKE SERVICE UPON ONE EQUIVALENT TO SERVICE UPON THE OTHER. PERSONAL CITATION TO THE DEFENDANT, OR HIS VOLUNTARY APPEARANCE, IS THE ESSENTIAL PRELIMINARY TO A PURELY PERSONAL JUDGMENT.

THE INABILITY OF THE OFFICER TO FIND THE DEFENDANT WAS NOT A FACT TO BE INFERRED, BUT A FACT TO BE AFFIRMATIVELY STATED IN HIS RETURN.

THE SUBSTITUTED SERVICE IN ACTIONS PURELY IN PERSONAM WAS A DEPARTURE FROM THE RULE OF THE COMMON LAW, AND THE AUTHORITY FOR IT, IF IT C O U L D B E A L L O W E D A T A L L, MUST HAVE BEEN STRICTLY FOLLOWED.

STATE OF MINNESOTA
COUNTY OF HENNEPIN

No 14838

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

In the Matter of the Application to Register Title to Certain Land, of

WILLIAM HOLMES

ORDER AND DECREE
OF REGISTRATION

The above entitled matter, upon the motion of the applicant(s), came on for hearing at the Court House in the City of Minneapolis, said County and State, before the Referee, who has filed his report herein, and to whom said matter has been duly referred to hear the evidence in said cause and report his conclusions therefrom; and the Court having duly considered the Application, the Report or Reports of the Examiner, the evidence adduced by the applicant(s) and the report of the Referee, finds:

1. That according to the last official assessment thereof, the premises hereinafter described are of the assessed value of $2,000.00, exclusive of improvements. The full and true value thereof, exclusive of improvements, according to the last official assessment is $2,000.00.

2. That all the requirements of the law in respect to the application and any amendments thereof have been complied with and that all the defendants in this proceeding have been duly served with process as required by law or have consented to the registration herein and it further appears that no Answer, Demurrer or Notice of appearance has been filed in this proceeding, except the joint answer of the defendants, Jessie G. Samar and Johannah C. Samar, which answer has been withdrawn by written instrument duly filed herein.

3. That, except as hereinafter provided, none of the defendants named in the summons and any amendments or supplements thereto, have any right, title, estate, lien or interest in the real estate hereinafter described.

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4. That the premises hereinafter described are occupied by Paul Rosso, Paulina Rosso, Gordon Evanson and Melba P. Evanson at sufferance; also by Leo Mady's Tavern and Accurate Advertising Carriers, Inc. pursuant to oral month to month tenancies.

(add any additional findings and number them beginning with number 5)

5. That Elbe File and Binder Co., Inc., a defendant herein, is a foreign corporation, organized under the laws of the State of Massachusetts, and as a non-resident defendant is duly served with summons by mailing as evidenced by the affidavit of the Clerk of this Court, duly filed herein.

6. That Leo Mady's Tavern, an occupant of the premises, is a sole proprietorship duly licensed by the City of Minneapolis to Florence E. Mady, and is operated and conducted by Florence E. Mady and Leo Mady, wife and husband.

7. That Twin City Typewriter Co., an occupant of adjoining Lot 3, is a sole proprietorship owned and operated by John M. Johnson, who has been duly served with summons in this proceeding.

8. That Paulina Rosso, a defendant herein, is also known as Pauline Rosso and is one and the same person as one of the grantors in Book 2220 of Deeds, Page 494.

9. That Anchor Laundry Co., a partnership, an occupant of adjoining Lot 5, has duly assented to this proceeding by written assent duly filed herein.

10. That the Paul Ross, who is the defendant and judgment debtor in judgments of this Court in cases No. 512834, 516223 and 525244 is not the same person as Paul Rosso in applicants chain of title.

11. That William Dunn Holmes, against whom the United States of [illegible] a tax lien in Case No. 1956, is not the owner of the [illegible] herein.

12. That any claim [illegible] Lot 2 and Lot 5, both adjoining, are maintained [illegible] and not as a matter of right.

FILED

AUG 8 1961

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED, as follows:

1. That a default as to each defendant named in the summons and any amendments or supplements thereto and all heirs and devisees of any of the persons named therein who are deceased and, "all other persons or parties unknown claiming any right, title, estate, lien or interest in the real estate hereinafter described", is hereby entered in the above entitled action.

2. That William Bolgan

whose post-office address is Village of Morgan

County of Redwood, State of Minnesota, is (~~are~~) the owner(s) of an estate in fee simple in the following described land in the County of Hennepin, State of Minnesota:

Lot 4, Block 9, Wilson's Re-arrangement of Blocks 2, 3, 6, 7, 9, 10, 11, 14, 15, 19, 20, 21, 24, 26, 29, 31, 33, 35, 37, 39, and 41 of East Side Addition to City of Minneapolis.

according to the recorded plat thereof.

(~~strike out the one which is not applicable~~)

3. That the said land be brought under the provisions and operation of Chapter 508 Minnesota Statutes, 1953 for the State of Minnesota, and all acts amendatory thereof, and that title thereto be confirmed and registered as provided in and by said act; subject, however:

To any rights or incumbrances which may be subsisting, specified in Section 508.25, Chapter 508, Minnesota Statutes, 1953, and all acts amendatory thereof.

To an inchoate right by the Laws of the State of Minnesota subsisting in Eva Holmes as the lawful spouse of William Holmes *(strike out when not applicable)*

To a judgment in favor of James Ledwein in the sum of $2686.20 in Hennepin County District Court Case No. 532205.

TO a judgment in favor of James Ledwein in the sum of $520.00 in Hennepin County District Court Case No. 547205.

To an attorney's lien in favor of Samuel Saliterman in the sum of $1350.00 in Hennepin County District Court Case No. 532205.

TO an Attorney's lien in favor of Samuel Saliterman in the sum of $520.00 in Hennepin County District Court Case No. 547205.

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4. That ... William Holmes ... is xxx 29

years of age (xxxxxxxxx) and is (xxx under no disability and is xxxx married to Eva Holmes

Dated at Minneapolis, Minnesota.

August 8 1961

Earl J. Larson
Judge of said District Court

Decree entered this 8th day of August 1961, at 12:20 o'clock M

PHILIP C. SCHMIDT, Clerk of said District Court. by A G Hopper Deputy

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STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

I hereby certify that this is a true and correct copy of the original order and decree of registration entered in the above entitled proceeding.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said District Court, at the City of Minneapolis, in said County and State, this ... day of ... 19...

PHILIP C. SCHMIDT, Clerk of said District Court. ... Deputy

X. NORTHWEST HOLDING CO. v. EVANSONS UD # 33943
NORTHWEST HOLDING CO. v. ROSSOS UD # 33944

PETITIONERS MAKE REFERENCE TO THE FACTS,

AS STATED IN: PETITION FOR WRIT OF CERTIORARI.

ON PAGE 57 : PETITIONERS' TITLE SINCE 1919.

ON PAGE 59 : LETTER dated AUGUST 18, 1961,
to GORDON EVANSON & MELBA P.EVANSON
from: I. MIRVISS.

ON PAGE 60 : LETTER dated AUGUST 21, 1961,
TO: I. MIRVISS,
FROM: GORDON EVANSON AND
MELBA P. EVANSON

ON PAGE 61 COMPLAINT IN UNLAWFUL DETAINER
SERVED ON: GORDON EVANSON AND
MELBA P. EVANSON.

ON PAGE 204A ANSWER TO COMPLAINT IN UNLAWFUL
DETAINER.

ON PAGE 62 ORDER BY JUDGE BRUCE C. STONE,
MINNEAPOLIS CRIMINAL COURT,
DATED: SEPTEMBER 26, 1961.

PETITIONERS MAKE REFERENCE TO THE

WRIT OF RESTITUTION, ON PAGE 56., OF THIS

PETITION FOR REHEARING.

THE SPURIOUS COMPLAINT IN UNLAWFUL DETAINER

WAS NOT SERVED UPON PAUL ROSSO AND PAULINA ROSSO.
SEE: TRANSCRIPT, PAGE 44, PETITION FOR REHEARING.

THE SPURIOUS COMPLAINT IN UNLAWFUL DETAINER SERVED UPON GORDON EVANSON AND MELBA P. EVANSON, DID NOT STATE A CAUSE OF ACTION, AS REQUIRED BY THE UNLAWFUL DETAINER STATUTE, FOR THE RIGHT OF POSSESSION OF THE PREMISES. M.S. CH. 566.03.

THE U.D. STATUTE, 566.04 LIMITATION, PROHIBITS RESTITUTION UNDER THIS CHAPTER, OF THOSE IN QUIET POSSESSION FOR THREE YEARS NEXT BEFORE THE FILING OF THE COMPLAINT.

SEE: MASTIN v. MAY, 127 MINN. 93 (1914), at PREFACE x.

THE HOMESTEAD OCCUPANTS ENTERED PEACEABLY, UNDER TITLE IN NOVEMBER OF THE YEAR 1919, AND HAVE CONTINUOUSLY AND UNINTERRUPTEDLY OCCUPIED THE PREMISES AS HOMESTEAD.

AT THE HEARING IN MPLS. CRIMINAL COURT, THE N. W. HOLDING COMPANY, DID NOT ADDUCE ANY PROOF TO SHOW, THE RIGHT OF POSSESSION OF THE PREMISES.

THE ORDER OF THE COURT, DID NOT SHOW N.W. HOLDING CO., WAS ENTITLED TO THE RIGHT OF POSSESSION.

THE WRIT OF RESTITUTION PPEPARED BY A DEPUTY CLERK OF COURT, NOT AUTHORIZED BY ANY STATUTE OR COURT RULE, AFTER TERM, DID NOT CONTAIN FINDINGS OF FACT AND CONCLUSIONS OF LAW, AS REQUIRED BY M.R.C.P., RULE 52, AND STATUTE, AND DID NOT SHOW THE CAUSE OF ACTION BEFORE THE COURT OF INQUIRY.

ON NOVEMBER 30, 1961, WITHOUT NOTICE, WARNING, OR PROBABLE CAUSE, THE HOMESTEAD PROPERTY WAS INVADED, UNDER "COLOR OF LAW", AND BY FORCE, ORGANIZED VIOLENCE, AND TERROR, SEIZED, TOGETHER WITH THE EXEMPT PERSONAL AND HOUSEHOLD POSSESSIONS, OVER 6,000 POUNDS, AND PADLOCKS PLACED ON THE HOMESTEAD LIVING QUARTERS, AND HOMESTEAD GARAGES. Minn.St. Ch. 550.37 PROPERTY EXEMPT. See: Petition for Writ, P. 237A.)

PETITIONERS' EXEMPT PERSONAL AND HOUSEHOLD POSSESSIONS, WERE SOLD BY MOHAWK TRANSFER & STORAGE COMPANY, MINNEAPOLIS, TO : AMANS FURNITURE CO., RICE LAKE, WISCONSIN, FOR $350.00, ON AUGUST 22, 1966. See: PAGE 348A, Pet. for Writ.

XI. CONCLUSION.

THE REASON THE PETITION FOR REHEARING IS TO BRING TO THE COURT'S ATTENTION AND FOR REARGUMENT, THE FACT THAT, IN THE STATE COURTS, THERE WAS NO VALID JUDGMENT, AND A TOTAL WANT OF JURISDICTION IN ALL OF THE PROCEEDINGS.

TITLE AND THE RIGHT OF POSSESSION OF PROPERTY, CAN NOT BE DIVERTED BY PROCEEDINGS WITHOUT JURISDICTION.

THE COURT'S ATTENTION IS BROUGHT TO THE FACT THAT THE HOMESTEAD OCCUPANTS, IN PEACEABLE, CONTINUOUS POSSESSION FOR A PERIOD OF FORTY-TWO (42) YEARS, WERE TURNED OUT BY FORCE, ORGANIZED VIOLENCE AND TERROR, UNDER THE "COLOR OF LAW", DISTURBING THE PUBLIC PEACE,

AND THE FACT THAT, A PLAIN, SPEEDY, ADEQUATE REMEDY IS NOT AVAILABLE, AND THIS IS THE LAST CLEAR CHANCE TO SET ASIDE THE VOID JUDGMENTS AND PURGE THE RECORDS.

AND THE FACT THAT, HOMESTEAD PREMISES ARE GUARANTEED BY THE MINN. CONSTITUTION, ART. 1, SEC. 12, AND STATUTE CH. 510, ABSOLUTELY - AGAINST SEIZURE AND SALE FROM UNAUTHORIZED LIENS, LEVYS, SHERIFF SALES, JUDGMENT CREDITORS, AND TORRENS PROCEEDINGS IN DEROGATION OF THAT OF THE REGISTERED OWNER.

THE COURT'S ATTENTION IS BROUGHT TO THE FACT THAT EXEMPT PERSONAL PROPERTY IS GUARANTEED BY THE MINN. CONST., ART. 1, SEC. 12, AND BY MINN. ST. CH. 550.37 ABSOLUTELY - AGAINST SEIZURE AND SALE FROM UNAUTHORIZED LIENS, LEVYS, SHERIFF SALE, JUDGMENT CREDITORS AND WAREHOUSE-MEN'S LIENS.

AND THE FACT THAT, JUDICIAL PROCEEDINGS DEVIATE FROM THE COMMON LAW GUARANTEES, AND PORTIONS OF THE COURT RULES ARE UNCONSTITUTIONAL.

AND THE FACT THAT CONSTITUTIONAL AND STATUTORY GUARANTEES THAT ARE ABSOLUTE, AS IN HOMESTEAD PREMISES, EXEMPT PROPERTY, AND COURT PROCEEDINGS, IN ACCORDANCE TO THE PRINCIPLES OF THE COMMON LAW, AND THE SETTLED LAW, FOR THE ENTIRE HISTORY OF OUR NATION, WILL HAVE ALL BEEN IMPAIRED.

XII. PROCEDURAL HISTORY

THE RESPONDENT, N. W. HOLDING COMPANY, A MINNESOTA CORPORATION, DID NOT INFORM THE COURT, AS WELL AS THE PETITIONERS, THE ACTUAL "CIRCUMSTANCES", AND SURROUNDINGS, UNDER WHICH THEY "WILL NEVER BUY A BUILDING UNDER THOSE CIRCUMSTANCES AGAIN".

"CIRCUMSTANCES"

Date:

AUG. 18, 1961 — Letter addressed and certified mailed to Gordon Evanson & Melba P. Evanson's HOMESTEAD, 2326 Central Ave. N.E., signed by I. MIRVISS, which states in part:

"...you are hereby notified to vacate the premises that you are now occupying at this address within seven days from receipt of this letter". (MINN. S.CT. RECORD, P. 29).

AUG. 18, 1961 — First Fedrl. S&L Assn. MORTGAGE NO. 3303935. (MINN. S.CT. SUPPLEMENTARY RECORD, P. 43a)

AUG. 18, 1961 — Twin City Federal Savings & Loan Assoc., MORTGAGE NO. 666315, $28,000 to N.W. HOLDING CO., secured on PETITIONERS'HOMESTEAD PROPERTY. (MINN. S.CT. SUPPLEMENTARY RECORD P. 43a).

Date - of "CIRCUMSTANCES"

AUG. 21, 1961 — TWIN CITY FED. SAV. & LOAN ASSOC. PAID, HOMESTEAD TAXES (rate) on PETITIONERS' HOMESTEAD. (MINN. S.CT. RECORD, P. 30)

AUG. 22, 1961 — Filing Date on CERTIFICATE OF TITLE. (MINN. S.CT. SUPPLEMENTARY REC. P. 43a)

AUG. 30, 1961 — Date of ATTORNEY'S TITLE OPINION, addressed to TWIN CITY FED. SAV. & LOAN ASSOC., MPLS. (MINN. S.CT. RECORD, P. 227).

SEP. 14, 1961 — Date on ASSIGNMENT OF RENTS. WM. HOLMES AND EVA HOLMES assigned to N.W. HOLDING CO., all of the rents accruing or payable on or after JULY 1, 1961. (MINN. S.CT. BRIEF, P. 112)

SEP. 19, 1961 — Date on AFFIDAVIT attached to Complaint in Unlawful Detainer, signed by Attny. ARNOLD I. FEINBERG. (MINN. S.CT. RECORD, P. 4).

SEP. 26, 1961 — HEARING DAY, Mpls. Municipal Court, brought by N.W. HOLDING CO., Unlawful Detainer Actions, before JUDGE BRUCE C. STONE, in which the Complainant introduced NO EVIDENCE to PROVE his case, NEVERTHELESS, JUDGE STONE stated to the ABSOLUTE HOMESTEAD PROPERTY OWNER, "The Writ will be issued", WITHOUT MAKING FINDINGS AND CONCLUSIONS OF LAW. (MINN. S.CT. RECORD, P. 39)

302 NY 290 — DUE PROCESS INSISTS ON A REAL HEARING, NOT A SHAM OR PRETENSE.

Hennessey v. Pederson
28 Minn. 461

THE COMPLAINANT MUST PROVE HIS CASE.

SEE: TRANSCRIPT OF PROCEEDINGS, U.D. # 33943 and 33944, before Judge BRUCE C. STONE, 26 September 1961. PETITION FOR REHEARING U.S. SUPREME COURT NO. 1101, Page 39.

SEP. 29. 1961

Letter addressed and registered mailed to MADY'S PLACE, 2324 Central Ave. N.E., Mpls., Minn., signed by MELVIN C. GITTLEMAN, President, National Properties, 3127 Nicollet, Minneapolis, which states in part :

"All rents from JUNE 30, 1961 and all future rents are now payable directly to this office. We will expect to receive your check covering the JULY, AUGUST, SEPTEMBER AND OCTOBER 1961 RENTS WITHIN the next few days."
(MINN. S.CT. BRIEF, P. 111).

OCT. 10. 1961

HEARING DAY, Mpls. Municipal Court, before JUDGE LINDSAY G. ARTHUR, on MOTION TO SET-ASIDE AS UNCONSTITUTIONAL AND NULL AND VOID, etc., (MOTION - found in M. S.CT. RECORD, P 59) (NOTATIONS OF COURT PROCEEDINGS - MINN. S.CT. RECORD, P.71)

OCT. 28. 1961

ORDER, Dated 28 OCT. 1961, by Judge LINDSAY G. ARTHUR, - Denied - 10-day stay granted. The ORDER contained NO FINDINGS as requested. (MINN. S.CT. RECORD, P. 77).

Date:

NOV. 20. 1961

ORDER NUNC PRO TUNC, dated 20 NOV. 1961, by Judge ARTHUR, contained no Findings, and was received on 21 NOVEMBER 1961, by mail, AFTER the HOMESTEAD was SMASHED OPEN AND INVADED. (MINN. S.CT. RECORD, P. 81)

NOV. 21. 1961

THE FORCIBLE ENTRY AND TRESPASS INVASION BY N.W. HOLDING CO., A MINN. CORP.'S ATTORNEYS AND AGENTS, WITH MARVIN WERNER; MOHAWK TRANSFER & STORAGE CO.; MINNEAPOLIS POLICE; POLICE OFFICERS WALTER B. ERICKSON, C.W. ZANE, and MORRIS J. MATTHEWS; DEPUTY SHERIFF, together with OTHERS - of PETITIONERS' HOMESTEAD.

NOV. 21. 1961

HEARING, 2:00 P.M., Before Mpls. Municipal Court JUDGE DONALD BARBEAU, in Unlawful Detainer Action # 34129, :

Melba P. Evanson, Homestead Property Owner,
vs.
Mrs. Florence Mady, Store Tenant, occupying a Portion of Homestead Prop., 2324 Central.

(SEE: MINN. S.CT. NO. 38771,
ANSWER TO RESPONDENTS MOTION FOR DISMISSAL
AND
APPELLANTS' MOTION FOR SPECIAL RELIEF,
PAGE 20, ITEM 103.)

Date:

NOV. 24. 1961

HEARING, 2:00 P.M., Before Mpls. Municipal Court Judge DONALD BARBEAU, DELAYED, until DECEMBER 1, 1961, because Attorney ARNOLD I. FEINBERG, was supposedly going to St.Paul, Minn., for a hearing.

N.W. Holding Co. v. Evansons U.D. # 33943
A N D
N.W. Holding Co. v. Rossos U.D. # 33944

SEE: ANSWER TO RESPONDENTS, etc. P.22
ITEM 108 - Minn.S.CT.)

MINN. S.CT. RECORD, P. 88)

NOV. 28. 1961

HEARING, 2:00 P.M., Before Mpls. Municipal Court Judge DONALD BARBEAU, in Unlawful Detainer Action:
Melba P. Evanson, Homestead Property Owner,
vs. UD # 34129
Mrs. Florence MADY, Store Tenant, occupying a Portion of Homestead Prop., 2324 Central.

(SEE: MINN. S.CT. ANSWER TO RESPONDENTS,
Page 23, ITEM 114)
MINN. S.CT. RECORD, P. 93)

NOV. 30. 1961 THE SECOND FORCIBLE ENTRY AND TRESPASS INVASION, AND SEIZURE OF THE HOMESTEAD OWNERS' EXEMPT PERSONAL PROPERTY AND HOMESTEAD PROPERTY, IN CONTEMPT OF DIS. JUDGE JOHN A. WEEKS' DTD. NOV. 21, 1961, RESTRAINING ORDER, AND IN CONTEMPT OF SCHEDULED HEARING DEC. 1, 1961, IN MUN. COURT, AND IN CONTEMPT OF SCHEDULED HEARING DEC. 7, 1961, IN MINNESOTA SUPREME COURT.
(MINN.S.CT. ANSWER TO RESP. Page 24, ITEM 117).

Date:

DEC. 7. 1961

HEARING DAY, MINNESOTA SUPREME COURT CASE # 38634, EVANSON & ROSSO vs. N.W. HOLDING CO., PETITION AND MOTION FOR SPECIAL RELIEF, an Extra-ordinary Remedy. (MINN.S.CT. RECORD, P. 95 and 98.)

DEC. 4. 1961

RESPONSE OF DEFENDANT NORTHWEST HOLDING CO., TO PLAINTIFF'S PETITION AND MOTION.
AF F I D A V I T, signed by Arnold I. Feinberg (MINN. S.CT. RECORD, P. 101 and 103).

DEC. 6. 1961

EVANSONS & ROSSOS' MEMO TO AID THE COURT AND ANSWER TO RESPONSE OF DEFENDANT, Case No. 38634. (MINN. S.CT. RECORD, P. 105).

DEC. 13. 1961 MINN. SUP. COURT ORDER, # 38634, "You will please take notice that on this date the following order was entered in the above entitled cause:
"IT IS ORDERED that the petition for special relief be, and the same hereby is denied. BY THE COURT". (MINN.S.CT. RECORD, P. 113).

MARCH 1962 PAUL DAN ROSSO visited the New Chief JUSTICE, MR. OSCAR R. KNUTSON, at the State Capitol, and was told by Chf. Justice KNUTSON, we (Court) NEVER HAD THAT CASE (Evansons & Rossos vs. N.W. HOLDING CO. #38634.

Justice Knutson checked in his small appointment book and showed Paul Rosso, that he did not have ANY notations regarding CASE No. 38634, on the page dated DECEMBER 7, 1961.

Date:

JANUARY 10, 1962

Dep. Sheriff served PAUL ROSSO, a CANCELLATION OF CONTRACT FOR DEED.
(MINN.S.CT. RECORD, P. 124)
NOTE: PAUL ROSSO had never entered into a contract for deed with anyone.
(The State Real Estate Div. took NO ACTION in the matter. (MINN.S.CT. RECORD, P. 123.)

APRIL 27, 1962

HOMESTEAD NOTICE Filed in the Henn. County Register of Deeds Office.
(MINN.S.CT. SUPPLEMENTARY RECORD, P. 46(a).

MAY 9, 1962 NOTICE OF APPEAL TO THE SUPREME COURT (MINN.S.CT. RECORD, P. 233).

JUNE 11, 1962

FILED in MINN. SUPREME COURT - BRIEF AND RECORD CASE NO. 38771, with Dep. Clerk JOHN McCARTHY, plus four (4) PETITIONS :

TO RESTRAIN THE RENTAL OF LIVING QUARTERS, 2324-2326 CENTRAL AVE. N.E., MPLS., MINN.

TO RESTRAIN THE SALE OF PERSONAL AND HOUSE-HOLD POSSESSIONS,

TO RESTRAIN THE ISSUANCE OF PERMIT, TO WRECK OR REMODEL THE HOMESTEAD PREMISES,

REQUEST FOR AN EARLY HEARING.

NOTE: ALL PETITIONS WERE DENIED THE SAME DAY, JUNE 11, 1962.

Date:

JUNE 12, 1962 SHERIFF SALE OF PETITIONERS' EXEMPT PERSONAL AND HOUSEHOLD POSSESSIONS.

JUNE 13, 1962 FILED in Minn. SUP. COURT, NOTICE OF MOTION, AFFIDAVIT, and MOTION FOR SPECIAL RELIEF, # 38771, to be HEARD: JUNE 22, 1962.

JULY 2, 1962 DATE of Letter with NOTICE OF MOTION MOTION FOR DISMISSAL and AFFIDAVIT, prepared by N. W. Holding Company.

JULY 13, 1962 FILED PRINTED BOOKLET ENTITLED : ANSWER TO RESPONDENTS MOTION FOR DISMISSAL AND APPELLANTS' MOTION FOR SPECIAL RELIEF. Case No. 38771.

JULY 20, 1962 ORDER, by MINN. S. CT., states in part: "...the motion to dismiss the appeal be denied..."

FILED COPIES with Clerk of Minn. Supreme Court, of NOTORIZED AFFIDAVITS, signed by Homestead NEIGHBORS, Regarding: THE EXCLUSIVE POSSESSION THE NOTORIOUS POSSESSION AND HOMESTEAD PROPERTY OF DAN ROSSO AND FAMILY.

AUGUST 13, 1962 The DATE the N.W. Holding Co., TOOK AND CARRIED AWAY, the HOMESTEAD GARAGES AND THE CONTENTS THEREIN.

OCTOBER 31, 1962 APPELLANTS made Application for WRIT OF SUPERVISORY CONTROL, to CORRECT ERRONEOUS RULINGS OF THE Hennepin County District Court.

Date:

NOVEMBER 30, 1962 — THE SIX CONSOLIDATED CASES WERE SERVED BY SHERIFF UPON THE PARTIES, AND THE SHERIFF'S RETURNS, TOGETHER WITH THE ORIGINAL PETITIONS WERE PROMPTLY SENT BY REGISTERED MAIL TO THE CLERK OF MINN. SUPREME COURT FOR FILING.

DEC. 5, 1962 — APPLICATION FOR DEFAULT JUDGMENT AGAINST N. W. HOLDING COMPANY.

DECEMBER 6, 1962 — SUPPLEMENTARY PETITION (HOMESTEAD GARAGES & CONTENTS TOOK AND CARRIED AWAY. FILED - MINN. SUPREME CT.)

DECEMBER 6, 1962 — H E A R I N G D A Y Minn. S.CT. Case No. 38771

NOTE: NO BRIEF filed by N.W. Holding Co.

NO PRINCIPAL DEFENDANT appeared to represent N. W. HOLDING COMPANY.

NO EVIDENCE WAS INTRODUCED TO SUPPORT THE CLAIM FOR POSSESSION OF THE PREMISES INVOLVED.

SEE : BOOKLET, entitled: PETITION FOR REHEARING, P. 14, ORAL ARGUMENTS PRESENTED BY PAUL DAN ROSSO BEFORE MINNESOTA SUPREME COURT.

JUNE 21, 1963 — O P I N I O N 265 MINN. 562

JUNE 27, 1963 — MOTION FOR A DIRECTED VERDICT, AND JUDGMENT ON THE PLEADINGS AND DEFAULT JUDGMENT.

Date:	
JULY 1 1963	NOTICE OF TAXATION OF COSTS set for 7/16/63 Filed.
JULY 1, 1963	PETITIONS AND MOTIONS RETURNABLE 7/8/63 Filed.
JULY 3, 1963	DEMAND FOR JUDGMENT against N.W. HOLDING COMPANY AND SIX APPLICATIONS FOR DEFAULT JUDGMENT, against the SIX CONSOLIDATED CASES.
JULY 8, 1963	OBJECTIONS TO PRETENDED "AFFIDAVIT OF DISBURSEMENTS AND NOTICE OF TAXATION OF COSTS".
JULY 8, 1963	MOTIONS BY APPELLANTS FILED RETURNABLE 7/8/63
JULY 9, 1963	MOTIONS DENIED - ORDER ENTERED.
JULY 15, 1963	MOTION FOR EXTENSION TO SERVE AND FILE PETITIONS FOR REHEARING Filed - returnable 7/22/63.
JULY 16, 1963	COSTS TAXED $25.50
JULY 26, 1963	ORDER ENTERED - MOTION DENIED.
JULY 26, 1963	JUDGMENT OF DISMISSAL ENTERED IN BOOK G-3
JULY 26, 1963	JUDGMENT ROLL MADE AND FILED.
JULY 26, 1963	REMITTITUR MAILED TO CLERK BELOW ORIGINAL FILES RETURNED TO CLERK BELOW BY MAIL

Date:

JULY 26, 1963 ORIGINAL FILES, FIDELITY SECURITIES & INVESTMENT CO., v. EVANSON ET AL RETURNED TO CLERK OF HENNEPIN COUNTY DISTRICT COURT BY MAIL.

JULY 26, 1963 ORIGINAL FILES IN RE: APPLICATION OF HOLMES, RETURNED TO CIERK OF HENN COUNTY DIS. COURT., BY MAIL.

AUGUST 3, 1963 ORDER, denied, MOTION FOR ENLARGEment OF TIME FOR REHEARING.

AUGUST 15, 1963 ORDER, denied, SECOND MOTION FOR ENLARGEMENT OF TIME FOR REHEARING.

AUGUST 17, 1963 NOTICE OF MOTION AND MOTION FOR ENLARGEMENT OF TIME UNTIL 31 AUGUST 1963.

SEPT. 7, 1963 NOTICE OF MOTION AND MOTION TO CONSOLIDATE CASES FOR REHEARING

SEPT. 19, 1963 "BRIEF OF LAW AND FACT", PREPARED BY ATTORNEY FRANK M. FUDALI, representing MR. H. H. WEESE and MRS. FLORENCE MADY.

SEPT. 23, 1963 ANSWER to the Pretended "BRIEF OF LAW AND FACT".

NOV. 8, 1963 MEMORANDUM (Prepared by APPELLANTS)

NOV. 22, 1963 ORDER, "PETITION FOR REARGUMENT DENIED".

NOV. 26, 1963 LETTER (prepared by Appellants) addressed to EACH DIVISION of the Minnesota Supreme Ct. (No response).

DEC. 13, 1963 REMOVAL PETITION AND BOND WAS TIMELY FILED WITH THE U. S. DIS. COURT OF MINN. (4-63 CIV. 457).

N. W. Holding Co. a Minn. Corp. V.
Supreme Court Record, Page - 39 -

Case No. 33943 and Case No. 33944

TRANSCRIPT OF PROCEEDINGS

The above-entitled matters came duly on for hearing before the Honorable Bruce C. Stone, one of the Judges of the above named Court, on the 26th day of September, 1961, at the hour of 2:00 o'clock p.m., without a jury, in the Court House in the City of Minneapolis, Minnesota.

Arnold I. Feinberg, Esq., appeared as attorney for Northwest Holding Co.

The defendants, in both actions, appearing pro se.

MR. ROSSO: I want to have your attention. My name is Paul Rosso and this is Paulina Rosso. You read our names off as though we were in this.

MRS. EVANSON: I am Melba Evanson and this is my husband.

MR. ROSSO: They have submitted a written answer to this complaint and unlawful detainer and I have submitted an affidavit in prejudice of Judge Sletten. I wish the Court to study this and give it serious consideration, which it warrants.

THE COURT: Initially, let's get to the plea first of all. Let's take the first case that we called, which is the Northwest Holding Company against Gordon Evanson and Melba Evanson. Mr. Rosso, are you trying to intervene in this case?

MR. ROSSO: You read my name off as

though I were summoned up here.

THE COURT: I think you may have a chair just now. We haven't gotten to this case yet.

MRS. EVANSON: I understood him to say it was one and the same.

MR. FEINBERG: They are individual cases. We are under the impression they were both served.

THE COURT: Is the same premises involved?

MR. FEINBERG: Same premises.

THE COURT: Maybe we can hear them together then.

MR. ROSSO: Sure, let's do that.

(Witnesses sworn.)

THE COURT: Initially, on the charge of unlawful detainer, what is your plea, Mr. Gordon Evanson; guilty or not guilty?

MR. EVANSON: Not guilty.

THE COURT: Mrs. Evanson?

MRS. EVANSON: Not guilty.

THE COURT: And on the case of the Northwest Holding Company vs. Paul Rosso and Paulina Rosso, what is your plea, Mr. Rosso?

MR. ROSSO: Not guilty of anything.

THE COURT: And Mrs. Rosso; guilty or not guilty?

MRS. ROSSO: Not guilty, Your Honor.

THE COURT: Okay. You may proceed, Mr. Feinberg.

MR. FEINBERG: Mr. Mirviss, will you take the stand?

ISRAEL MIRVISS

was called as a witness in behalf of plaintiff herein, being first duly sworn according to law, on his oath testified as follows:

DIRECT EXAMINATION

BY MR. FEINBERG:

Q Would you state your full name?
A First name, Israel. Mirviss.

Q And your associated with the Northwest Holding Company, a Minnesota corporation?
A Yes, sir. I am the president of Northwest Holding Company.

Q And Northwest Holding Company, a corporation, is the plaintiff in this action?
A Yes, sir.

Q Did Northwest Holding Company, your company, acquire title to the premises commonly known as 2326 Central Avenue Northesst, Minneapolis, Minnesota, legally described as Lot 4, Block 9, Wilson's Re-arrangement of Blocks 2, 3,6,7,9,10,11,14,15,19,20,21,24,26,29, 31,33,35,37,39 and 41 of the East Side Addition to City of Minneapolis?

A Yes, sir. That was purchased from the Holmes and I recorded the Deed and the Registrar of Titles issued me the owner's Duplicate Certificate; that is, issued the corporation the owner's Duplicate Certificate.

(Plaintiff's Exhibit No. A was marked for identification.)

Q Showing you Plaintiff's Exhibit A, is that the owner's Duplicate Certificate of Title issued by the Registrar of Titles, Hennepin County?

A Yes, sir. That is No. 333703.

MR. FEINBERG: Offer Plaintiff's Exhibit A.

THE COURT: Any objection?

MR. ROSSO: None.

THE COURT: Would you like to see it?

MR. ROSSO: No.

MRS. EVANSON: Yes.

Q (By Mr. Feinberg) At the time your company acquired title to the described premises, did you discover that Mr. and Mrs. Rosso and Mr. and Mrs. Evanson occupied portions of the premises?

A That is correct.

Q And have you since that time sought to recover the premises from these people?

A That is correct.

Q And have they refused consistently to vacate these premises?

A That is correct.

MRS. EVANSON: If I may be so bold to say it's fraudulent.

THE COURT: Legal objection. Is that your objection? The objection is overruled. It may be received and entered into evidence.

(Plaintiff's Exhibit A was received in evidence.)

THE COURT: The Certificate, you see, of the Certificate of Title—. You may at the appropriate time produce evidence as to any claim of fraud, but an offer of a Certificate of Title properly authenticated is admissible to evidence to attempt to show the title.

Q (By Mr. Feinberg) Mr. Mirviss, in connection with the premises described, did you have occasion to examine the records of the Registrar of Titles?

A Yes. I examined the records, and, in my opinion, title to this property and—

Q (Interrupting) You are an attorney licenced to practice law in Minnesota?

A That is correct.

Q And did you find the judicial determination of the status of Mr. and Mrs. Evanson and Mr. and Mrs. Rosso?

A Yes, sir. Under District Court File No. 14838 there was an Order and Decree of Registration, and, based upon that, it was—the Attorney's Certificate was issued in the name of William Holmes and I purchased it from William Holmes.

(Plaintiff's Exhibit No. B was marked for identification.)

THE COURT: What was the date of the purchase?

THE WITNESS: Three months ago.

MR. FEINBERG: August 16th, Your Honor. It's in the Complaint.

THE COURT: August 16, 1961?

THE WITNESS: Yes.

Q (By Mr. Feinberg) Showing you plaintiff's Exhibit B, is this a true and correct copy of the Order and Decree of Registration in the Attorney's Proceeding regarding this property?

A Yes, it is.

MR. FEINBERG: Offer Plaintiff's Exhibit B.

THE COURT: Any objection? In fairness to Mr. Rosso, he is shown in here, but there of "Not Found", Mr. Feinberg. I wonder if you ought not to give them a copy?

MR. FEINBERG: I shall be happy to. Do I understand they are making a general appearance here?

THE COURT: You folks are appearing here today to contest this matter, are you, Mr. Rosso and Mrs. Rosso?

MR. ROSSO: This is my mother, Paulina Rosso.

MR. FEINBERG: Here is a copy for her and here is a copy for you.

MR. ROSSO: This is homestead property under Minnesota Statutes 510.

THE COURT: We will get to that in a minute. We are now at the place in the orderly trial of the lawsuit where the plaintiff is putting in evidence. Is the reception in evidence of that document—do you have any objection to it?

MRS. EVANSON: I object one hundred percent.

THE COURT: On what grounds?

MRS. EVANSON: On the entire paper because it is fraudulent.

THE COURT: What legal grounds?

MRS. EVANSON: Because 2324-2326 Central Avenue is my homestead property and exempt from seizure or sale. On those grounds.

THE COURT: Do you have any objection?

MR. ROSSO: Yes.

THE COURT: On what legal grounds?

MR. ROSSO: This man, he brought an Attorney's Title in. Is that what it is? Would you be so kind as to check if that Attorney's Title was properly received? The United States Government was not notified of this because the U. S. Marshall's office in St. Paul has not yet received a copy of that to serve on the U. S. Marshall as of yesterday morning, so that title of certificate is just paper.

THE COURT: I think maybe what you folks--

The document will be received, Mr. Feinberg.

(Plaintiff's Exhibit B was received in evidence.)

THE COURT: You folks are in doubt because you don't have a lawyer. The Court will instruct you a little bit as to the nature and purpose of these proceedings.

The proceedings and unlawful detainer merely determine who has the right to possession of the property. They do not determine who has the right--the title to the property. It does not determine any equitable matter such as fraud or alleged fraud, if there be such. The only thing that this Court is concerned with is: Who has the right to

possession of the property today? So I mention that because, apparently you are confusing some possible other action with this type of action.

You may proceed, Mr. Feinberg.

MR. FEINBERG: We rest, Your Honor.

THE COURT: Alright. Now, Mr. and Mrs. Evanson first. Mr. Evanson, what would you like to say? Would you like to ask some questions of the witness, or, how do you want to proceed? You don't have a lawyer, so, if you are in doubt as to the law or anything, you may feel free to ask me.

MR. EVANSON: We feel that we are lawfully occupying it because we feel that however they obtained their title was fraudulent. Now, we have homestead.

THE COURT: Do you know Mr. Holmes?

MR. EVANSON: No, I don't.

THE COURT: Were you renting from him?

MR. EVANSON: No.

THE COURT: Who were you renting from?

MR. EVANSON: We had the property.

MR. ROSSO: They got a warranty deed. They are absolute owners. If you read the answer. You have got a copy of it.

THE COURT: Mr. Rosso, when it comes to you, I will call upon you; until that time, please be quiet.

MR. FEINBERG: I object to it as incompetent, irrelevant and immaterial. It's not the best evidence. It's of no consequence or significance. There has been a judicial determination of the ownership of this property.

THE COURT: Objection sustained. Alright. You see, you are trying to attack collaterally what what the District Court has already determined was a proper transfer of title. You are trying to attack what the law calls collateral. You have your right and you have your remedies, if such a situation does obtain, but it would not be in this Court; it would be in another matter, a matter that you would almost have to hire a lawyer to look into. I might say here for the record that anything that I say here relative to fraud was purely speculative.

MRS. EVANSON: Do you mean to say that the Court can do that with that homestead property?

THE COURT: The only difference between Homestead property and non-homestead property is in the amount of taxes that you pay, and, that, if you get a judgment against you for money, they can not sell the homestead which you own to satisfy the judgment, except under certain circumstances not here material. There may be another exception that doesn't occur to me off-hand.

MRS. EVANSON: Does the Court realize that Melba and Gordon Evanson have no judgments, no creditors? We have paid our taxes.

THE COURT: This gentleman has the title to the land. He went into Court and got title to the land. I cannot go behind, nor will I go behind the District Court's Order giving them title.

MRS. EVANSON: On the evidence that we have presented to you, would you be willing to look into this matter? We come to Court. We are not lying to you.

THE COURT: The District Court—

MRS. EVANSON: You have jurisdiction.

THE COURT: This Court has no jurisdiction, Maam, to determine title to real estate. I would be exceeding my powers and I would be violating not only the law but the judicial evidence. I cannot do it.

Now, Mr. Rosso, what would you like to say?

MR. ROSSO: Just a minute.

MRS. EVANSON: In other words, this Court finds that we, as the absolute and rightful owners, must accept that sheet of paper you have in your hand as a legal document?

THE COURT: Mrs. Evanson, do you know how these documents are obtained?

MRS. EVANSON: I don't know.

THE COURT: Here is what happens. The people—

MRS. EVANSON: Legally or illegally? What way are you explaining it now? I must know.

THE COURT: I am not your lawyer. I am trying to bend over backwards to explain to you. You haven't seen fit to hire a lawyer. A person who wants to register title goes through certain legal requirements and these legal requirements are scanned and studied by Referees, appointed by the Judges of District Court, and they study the background of the title and they go into all of the papers that are involved and, then, it goes before the District Court Judge and he affirms or certifies that the finding of the Referee is correct, and, when they do that, then, they issue a certificate of title.

I could not and would not and should not go behind this certificate of title.

If you are claiming fraud on the part of this gentleman or on the part of anybody else in obtaining this, there is another Court and another place, another time to do it, but not here.

Now, Mr. Rosso.

MR. ROSSO: In other words, without looking into it, you accept this man's certificate of title even though we tell you he has not conformed to the rules that you say have to be done. He has not served the U. S. A. Government on this.

THE COURT: Do you represent the U. S. Government?

MR. ROSSO: No. They have not been given any notice in this case.

THE COURT: Well, they can intervene if they feel—

MR. ROSSO: They are supposed to be served a notice first. I checked with the U. S. Marshall's office in St. Paul. I have been checking right along. Yesterday morning was the last time I checked and they still have not received it.

THE COURT: Is there any other reason why the Writ should not be issued?

MR. ROSSO: For the simple reason this is homestead property not subject to sale or seizure according to the Minnesota Chapter 510 Legislature—Statutes.

THE COURT: I think you folks, really, what you have gotten ahold of, in looking behind the scenes, you have gotten ahold of a deed from the wrong person.

MRS. ROSSO: No, no, no. We have had the deed since 1919. We have paid taxes and we had homestead on it all those years, Your Honor.

THE COURT: What is the situation, Mr. Feinberg?

MR. FEINBERG: There is some complicated background to this as to how they lost the property.

MR. MIRVISS: There was a Specific Performance suit, Your Honor.

MR. FEINBERG: Several judicial determinations on it.

THE COURT: I notice that. I think, Mr. Rosso points that out in his answer. I think Mr. Evanson does too.

MR. ROSSO: He denied all things dated fifteen days. How come this boy comes in? He is the owner. Are you going to be a party to this?

THE COURT: Do you mean that the way that I kind of think you may mean?

MR. ROSSO: I'm just wondering what your intentions were. Are you going to look into this, which would warrant, or are you just going to say "guilty" like Judge Sletten did in a case once before? They tried to get some other property that my—

THE COURT: I would suggest that you never ask me that question again.

MR. ROSSO: Alright. I won't say no more today.

THE COURT: Now, I will go into this once more, folks. I realize this is a difficult situation.

MRS. ROSSO: WE had done nothing. We had paid our bills all our life. We pay our taxes. We don't owe anybody a cent and those people come in and take our home from us. This belonged to my son and daughter-in-law.

MRS. EVANSON: Would you please look into that answer? We beg on bended knees. All of our savings go down the drain. Robbery I call it. We don't deserve to be treated in such a manner. We are United States citizens.

THE COURT: Did they have notice of the Attorney's Proceedings?

MR. FEINBERG: Their names aren't mentioned as being tenants at sufferance, Your Honor, in the Decree--rather--in the Order and Decree. As far as the plaintiff here is concerned, the plaintiff here is dealing with a man named Holmes, who appeared to have marketable title. He appeared to have title guaranteed by the State of Minnesota and the plaintiff is a bonafide purchaser of value and went out and placed the mortgage with Twin City Federal. The plaintiff here isn't aware of these peoples' rights, if any, and they have been judicially determined. I don't know what more can be said.

THE COURT: The Writ will be issued. Give them a five-day first.

MR. FEINBERG: Yes, Your Honor.

THE COURT: Stay until the 1st of October. I have no alternative but to issue the Writ.

The exhibits may be withdrawn, Mr. White.

(Whereupon, at the hour of 2:45 o'clock p.m., the case was concluded.)

* * * * * * *

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

REPORTER'S CERTIFICATE

I, James R. White, a court reporter in and for the City of Minneapolis, County of Hennepin, State of Minnesota, do hereby certify that on the 26th day of September, 1961, I was official reporter in and for said City of Minneapolis, County and State and do also hereby certify that the foregoing transcript is a true and correct record of all it purports to contain; that it was taken by me by machine shorthand on the date indicated and transcribed to typewriting by myself.

IN WITNESS WHEREOF I have hereunto set my hand and on this 28th day of September, 1961.

/s/ James R. White
James R. White

- -

STATE OF MINNESOTA)
County of Hennepin.) ss

Municipal Court, City of Minneapolis

U. D. No. 33943

Decision and Order

The above entitled action came regularly on for trial before the undersigned, one of the Judges of said Court, without a jury, on the 26th day of September, 19 61, the plaintiff appearing in person and by Arnold I. Feinberg, Esq., as counsel, the defendants appearing in person and by _____ Esq., as counsel, and pleading not guilty.

The Court finds the defendants guilty of unlawful detention of the premises described in the complaint and concludes that the plaintiff have restitution of said premises without delay and recover costs and disbursements herein.

STAYED UNTIL OCT. 1, 1961

Let judgment be entered accordingly.

By the Court,

Bruce C. Stone
Judge.

Dated this 26th day of September, 19 61

FIVE DAY STAY

Form 309 — Writ of Restitution. 1M 10-61S

STATE OF MINNESOTA,)
COUNTY OF HENNEPIN,) ss MUNICIPAL COURT, CITY OF MINNEAPOLIS.

THE STATE OF MINNESOTA

To any Police Officer of the City of Minneapolis, or to the Sheriff or any Constable of the County Aforesaid:

WHEREAS, Northwest Holding Co., a Minnesota Corporation Plaintiff of the _____ County and State aforesaid, at the Court of Inquiry for an unlawful or forcible entry and unlawful detainer, held at Minneapolis, in the County aforesaid, on the 26th day of September A.D. 19 61, before the above named Court in and for said County and State, by the consideration of the Court recovered judgment against Gordon Evanson and Melba P. Evanson defendants of Hennepin County to have restitution of the following described premises, situate, lying and being in the City of Minneapolis, Hennepin County, Minnesota, viz:

Lot 4, block 9, Wilson's Re-arrangement of Blocks 2, 3, 6, 7, 9, 10, 11, 14, 15, 19, 20, 21, 24, 26, 29, 31, 33, 35, 37, 39, and 41 of East Side Addition to City of Minneapolis, commonly known as 2326 Central N. E.

Therefore, you are hereby commanded, that, taking with you the force of the County, if necessary, you cause the said _____ Defendants, to be immediately removed from

the aforesaid premises, and the said_____ _____Plaintiff, to have peaceable restitution of the same. You are also hereby commanded that of the goods and chattels of the said_____ Defendants aforesaid, within said County, you cause to be levied, and, the same being disposed of according to law, to be paid to the said_____Plaintiff aforesaid, the sum of Seven and 98/100 Dollars, being the costs taxed against said Defendants together with one dollar for this Writ and your fees hereon and together with this Writ, make due return within thirty days from the date hereof according to law.

Witness the Honorable TOM BERGIN,

Municipal Judge this 8th day of

November A.D. 19 61.

ARTHUR H. ANDERSON
Clerk of the Municipal Court.

By (stamped) R. W. HAGEN
Deputy.

(MUNICIPAL COURT
S E A L
City of
MINNEAPOLIS)

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

4-63 Civ. 457

Gordon Evanson, Melba P. Evanson,
Paul Dan Rosso and Paulina Rosso,
Plaintiffs,

vs.

Northwest Holding Company, a
Minnesota corporation,
Defendant.

O R D E R

This proceeding has been pending for almost two years in this Court, and notwithstanding that the Court has heretofore dismissed the action for lack of jurisdiction and ruled adversely to the plaintiffs on motions for rehearing and default judgment, and in some five or more motions seeking relief by way of so-called writs of coram nobis and/or bills of review, plaintiffs persist in filing frivolous motions. Clearly, the time for a final cessation of the filing herein of further documents by the plaintiffs is long past due.

The Clerk of this Court, therefore, is directed and ordered not to accept for filing from plaintiffs, or from anyone in their behalf, further motions, pleadings, or any other documents of whatever description in the above proceeding. All motions heretofore filed and as to which no orders have been made by this Court are denied with prejudice.

This order does not assume to prevent plaintiffs from proceeding by way of appeal to the Eighth Circuit Court of Appeals from any order of this Court if any right to appeal remains under the law.

Dated this 20th day of December, 1965.

BY THE COURT:
GUNNAR H. NORDBYE Judge

REGISTRAR OF TITLES OF HENNEPIN COUNTY, MINN.

NOTICE OF LES PENDENS ON CERTIFICATE # 346701

FEE PAID : APRIL 14, 1967
$2.00 BEN K. ALLISON, Registrar of Titles
By: F. R. Wahlstrom, Deputy Reg.
of Titles.

* * * * *

STATE OF MINNESOTA)
COUNTY OF HENNEPIN) IN UNITED STATES
SUPREME COURT

GORDON L. EVANSON AND MELBA P. EVANSON
PAUL DAN ROSSO AND PAULINA M. ROSSO,
PETITIONERS,

VS.

NORTHWEST HOLDING COMPANY,
A MINNESOTA CORPORATION,

THE FOLLOWING IS ONE OF SEVERAL ACTIONS CONSOLIDATED:
FIDELITY SECURITIES & INVESTMENT CO., A MINN. CORP., PLAINTIFF, -vs-
MELBA P. EVANSON AND PAUL DAN ROSSO, DEFENDANTS, AND THIRD-PARTY PLAINTIFFS -vs-

BEN K. ALLISON, THIRD-PARTY DEFENDANT AND ATTY. EDWARD P. DIETRICH, THIRD-PARTY DEFENDANT,
RESPONDENTS

FILE NO. 1101
OCT. TERM 1966
NOTICE OF LIS PENDENS

ON 27 FEB. 1967, PETITION FOR WRIT OF CERTIORARI WAS SERVED UPON FIDELITY SECURITIES & INV. CO., BY CERTIFIED MAIL # 539599, DELIVERY ADDRESSED TO COUNSEL OF RECORD, FRANK M. FUDALI, AT HIS POSTOFFICE ADDRESS.

(continued)
NOTICE OF LIS PENDENS

NOTICE IS HEREBY GIVEN, That the above entitled action has been commenced and the complaint therein is now on file in the office of the clerk of Court above named, that the names of the parties to said action are as above stated; that the real property affected, involved and brought in question by said action is the tract of land in the County of HENNEPIN, State of Minnesota, described as follows, to-wit:

LOT 4, BLOCK 9, WILSON'S REARRANGMENT OF BLOCKS #, 2,3,6,7,9,10,11,14,15,19,20,21,24,26,29,31,33,35, 37,39,41, of EAST SIDE ADDITION TO CITY OF MINNEAPOLIS.

THE ABOVE DESCRIBED PROPERTY IS THE HOMESTEAD PROPERTY OF MELBA P. EVANSON AND GORDON L. EVANSON AND FAMILY, AND THIS HOMESTEAD PROPERTY HAS NOT BEEN ABANDONED.

THE TENANTS IN POSSESSION OF PORTIONS OF THE HOMESTEAD PROPERTY UNDER LANDLORD MELBA P. EVANSON'S TITLE ARE :

MRS. FLORENCE MADY, OWNER
MADY'S BAR
2324 CENTRAL AVENUE N. E.

AND

MR. H.H. WEESE, OWNER
ACCURATE ADVERTISING CO.
2326 CENTRAL A VENUE N.E.

AND

MR. WILLIAM HIRSCH, PARTNER
ANCHOR LAUNDRY COMPANY, A MINNESOTA PARTNERSHIP
OCCUPYING PORTION OF REAR YARD
FOR TRUCK LOADING PURPOSES,
2324 CENTRAL AVENUE N. E.

SEE: MINN. STATUTES 504, LANDLORD AND TENANT.

ALSO SEE: KIMBLE V. WILLEY 204 F 2d 238 AFFD.
98 F. SUPP. 730

(continued)
NOTICE OF LIS PENDENS

Notice is further given that the object of said action is:

TO OBTAIN THE RIGHT OF POSSESSION OF THE HOMESTEAD PREMISES, THE RETURN OF THE EXEMPT PERSONAL POSSESSIONS, AND AFFIRMATIVE EQUITABLE RELIEF.

MINN. STATUTES 510.07 PROVIDES THE FILING OF A NOTICE WITH THE REGISTER OF DEEDS DESCRIBING THE PREMISES AND CLAIMING THE SAME AS HIS HOMESTEAD.

ON 27 APRIL 1962 THIS NOTICE WAS FILED BY THE HOMESTEAD OWNER, MELBA P. EVANSON, IN THE REGISTER OF DEEDS OFFICE AS INSTRUMENT NUMBER 3343527, FILE NUMBER 8305, BOOK 915, PAGE 404 IN VAULT.

IT SHOULD BE NOTED, THE FOLLOWING OCCURRED ON: NOVEMBER 30, 1961. THE NORTHWEST HOLDING COMPANY THEIR ATTORNEYS AGENTS AND OWNER, THE MINNEAPOLIS POLICE TOGETHER WITH OTHERS, BY FORCE, ORGANIZED VIOLENCE AND TERROR, UNDER "COLOR OF LAW", INVADED AND SEIZED THE HOMESTEAD TOGETHER WITH THE EXEMPT PERSONAL POSSESSIONS THEREIN, WHILE THE HOMESTEAD OWNER WAS IN QUIET AND PEACEABLE POSSESSION.

SEE: IRON MOUNTAIN AND HELENA R.R. V. JOHNSON
119 U. S. 608.

AN ACTION IS NOW BEFORE THE U. S. SUPREME COURT ON WRIT OF CERTIORARI. CASE NUMBER 1101, OCTOBER TERM 1966.

Dated 12 APRIL, 1967. /s/ Melba P. Evanson
7 Ortman Street S. E.
Minneapolis, Minnesota, 55414

STATE OF MINNESOTA,)
COUNTY OF HENNEPIN) ss IN UNITED STATES SUPREME COURT

GORDON L. EVANSON AND MELBA P. EVANSON
PAUL DAN ROSSO AND PAULINA M. ROSSO,
PETITIONERS,

vs.

NORTHWEST HOLDING COMPANY,
A MINNESOTA CORPORATION

THE FOLLOWING IS ONE OF SEVERAL ACTIONS CONSOLIDATED : FIDELITY SECURITIES & INVESTMENT CO., A MINN. CORP., PLAINTIFF, -vs- MELBA P. EVANSON AND PAUL DAN ROSSO, DEFENDANTS AND THIRD-PARTY PLAINTIFFS -vs- BEN K. ALLISON, THIRD-PARTY DEFENDANT AND ATTY. EDWARD P. DIETRICH, THIRD-PARTY DEFENDANT.
RESPONDENTS.

FILE NO. 1101
OCT. TERM 1966

NOTICE OF LIS PENDENS
ON TORRENS CERTIFICATE NO. 346701
ON 27 FEB. 1967, PETITION FOR WRIT OF CERTIORARI WAS SERVED UPON FIDELITY SECURITIES & INV. CO., BY CERTIFIED MAIL # 539599, DELIVERY ADDRESSED TO COUNSEL OF RECORD, FRANK M. FUDALI, AT HIS POSTOFFICE ADDRESS.

NOTICE IS HEREBY GIVEN, That the above entitled action has been commenced and the complaint therein is now on file in the office of the clerk of the Court above named; that the names of the parties to said action are as above stated; that the real property affected, involved and brought in question by said action is the tract of land in the County of HENNEPIN, State of Minnesota, described as follows, to-wit:

(continued)
NOTICE OF LIS PENDENS

LOT 4, BLOCK 9, WILSON'S REARRANGMENT OF BLOCKS 2, 3, 6, 7, 9, 10, 11, 14, 15, 19, 20, 21, 24, 26, 29, 31, 33, 35, 37, 39 and 41 of EAST SIDE ADDITION TO City of MINNEAPOLIS.

THE ABOVE DESCRIBED PROPERTY IS THE HOMESTEAD PROPERTY OF MELBA P. EVANSON AND GORDON L. EVANSON AND FAMILY, AND THIS HOMESTEAD PROPERTY HAS NOT BEEN ABANDONED.

NOTICE TO THE PUBLIC

FROM: MELBA P. EVANSON, WARRANTY DEED OWNER,
DAUGHTER OF DAN ROSSO AND PAULINA M. ROSSO.

THE FOLLOWING AFFIDAVITS ARE REGARDING :

THE "EXCLUSIVE POSSESSION", THE "NOTORIOUS POSSESSION", AND "HOMESTEAD" OF DAN ROSSO AND FAMILY, COMMONLY KNOWN AS 2324-2326 CENTRAL AVENUE NORTHEAST, MINNEAPOLIS, MINNESOTA, 55418.

DAN ROSSO AND PAULINE ROSSO, HUSBAND AND WIFE
TO
MELBA P. EVANSON
3189347
WARRANTY DEED
DATED JULY 30, 1959
FILED JULY 30, 1959, 3:20 PM
BOOK 2220 of DEEDS, PAGE 494

THE FOLLOWING AFFIDAVITS ARE RECORDED IN ACCORDANCE TO MINNESOTA STATUTES CHAPTER 386.26 TRANSCRIBING CERTAIN INSTRUMENTS, SUBD. 3; AND CHAPTER 600.23 REGISTERS AND CLERKS SUBD. 1, DEPOSIT OF PAPERS.

(continued)
NOTICE OF LIS PENDENS

CARL O. WEGNER
ALFRED R. JOHNSON
AL FORSYTHE
MELVIN O. LARSON
A. J. PIERI
MRS. HENRY STENE
H. STENE
DENNIS WEST
SAM KATIN
M. J. WILLIAM
JOHN J. FORSYTHE
JOHN A. LABENSKI
GEO. E. MURK
RAYMOND F. MALECKI
G. F. NELSON
RAYMOND K. NELSON
JOHN F. BURMEISTER

ALSO ATTACHED, A CERTIFIED COPY OF A DATED JUNE 24, 1958, ORDER BY THE HON. JUDGE PAUL S. CARROLL, THAT WAS NOT APPEALED FROM, VACATED, OR SET-ASIDE, AND IS A FINAL ORDER IN ACCORDANCE TO 18USC 1506.

DATED 8 MAY, 1967 /s/ Melba P. Evanson
7 Ortman Street S. E.
MINNEAPOLIS, MINNESOTA
ZONE 55414

MINN. STATUTES CH.

557.08 FORCIBLE EVICTION; TREBLE DAMAGES.

IF A PERSON WHO IS PUT OUT OF REAL PROPERTY IN A FORCIBLE MANNER WITHOUT LAWFUL AUTHORITY, OR WHO, BEING SO PUT OUT, IS AFTERWARDS KEPT OUT BY FORCE, SHALL RECOVER DAMAGES THEREFOR, JUDGMENT MAY BE ENTERED FOR THREE TIMES THE AMOUNT AT WHICH THE ACTUAL DAMAGES ARE ASSESSED.

557.09 FORCIBLE ENTRY; TREBLE DAMAGES.

IN CASE OF FORCIBLE ENTRY AND DETENTION, IF A PERSON, CLAIMING IN GOOD FAITH, UNDER COLOR OF TITLE, TO BE RIGHTFULLY IN POSSESSION, SO PUT OUT OR KEPT OUT, SHALL RECOVER DAMAGES THEREFOR, JUDGMENT MAY BE ENTERED IN HIS FAVOR FOR THREE TIMES THE AMOUNT AT WHICH THE ACTUAL DAMAGES ARE ASSESSED.

566.04 LIMITATION.

NO RESTITUTION SHALL BE MADE UNDER THIS CHAPTER OF ANY LANDS OR TENEMENTS OF WHICH THE PARTY COMPLAINED OF, OR HIS ANCESTORS, OR THOSE UNDER WHOM HE HOLDS THE PREMISES, HAVE BEEN IN QUIET POSSESSION FOR THREE YEARS NEXT BEFORE THE FILING OF THE COMPLAINT, AFTER THE DETERMINATION OF THE LEASEHOLD ESTATE THAT HE MAY HAVE HAD THEREIN.

In DIVIDE CREEK IRR. DIST. v. HOLLINGSWORTH (10 Cir.) 72 F (2d) 859, 863, 96 A.L.R. 937, 942,

THE COURT STATED: "* * * WHEN THE SUPREME COURT OF THE UNITED STATES, OR OTHER APPELLATE TRIBUNAL, CAN END LITIGATION BY AN EXAMINATION OF ITS OWN RECORDS, IT IS IN THE INTEREST OF JUSTICE THAT IT DO SO. NO USEFUL PURPOSE IS SUBSERVED BY REMANDING THE CASE TO ENABLE THE PARTIES FORMALLY TO DRAW UPON THE RECORD AN INDISPUTABLE AND CONCLUSIVE FACT DISCLOSED BY AN INSPECTION OF ITS OWN AUTHENTIC RECORDS. * * *

"THE SITUATION IS QUITE DIFFERENT IN THE TRIAL COURTS. THEIR JUDGMENTS ARE SUBJECT TO REVIEW, AND IN ORDER TO REVIEW THEM, A RECORD OF THE PROCEEDINGS IN THAT CASE MUST BE MADE FOR AN APPELLATE COURT WHICH CANNOT TAKE NOTICE OF THE RECORDS OF EVERY DISTRICT IN ITS JURISDICTION. MOREOVER, QUESTIONS OF RES JUDICATA ARE OFTEN CLOSE AND DISPUTABLE, AND ADVERSARIES OUGHT TO BE NOTIFIED OF THE PLEA AND AFFORDED AN OPPORTUNITY TO MEET IT. IN THE TRIAL COURTS, THEREFORE, A CLAIM OF RES JUDICATA MUST BE PLEADED, AND IF TRAVERSED, PROOF THEREOF MUST BE MADE. The records are sufficient evidence of their genuineness (Wigmore on Evidence, § 2158), but the material parts of the record of the former proceeding must be offered in evidence, in order that a record may be made upon which a review may be had."

LOWRY v. ERWIN, 39 Am. Dec. 556 (La. 1843)

IN FORCED ALIENATIONS, REASONABLE COMPLIANCE WITH THE FORMS OF LAW IS NECESSARY, UNDER PENALTY OF NULLITY. WHEN RESORT IS HAD TO THE SUMMARY AND MORE SEVERE REMEDIES ALLOWED, A STRICTER COMPLIANCE WITH EVERY LEGAL FORMALITY IS REQUISITE.

PROCEEDINGS UNDER EXECUTORY PROCESS OF SEIZURE AND SALES ARE TO BE SCRUTINIZED CLOSELY; AND IF THE LAW HAS NOT BEEN COMPLIED WITH, THE SALE IS VOID.

VALID JUDGMENT IS NECESSARY TO SUPPORT SALE UNDER AN EXECUTION OR ORDER OF SALE, AND WITHOUT IT THE TITLE IS NOT DIVESTED.

PRESUMPTION THAT CAUSE IS WITHIN JURISDICTION OF COURT, APPLIED ONLY TO COURTS OF GENERAL JURISDICTION, NOT TO THOSE WHOSE JURISDICTION IS LIMITED.

PURCHASER UNDER VOID ORDER OF SALE ACQUIRES NO RIGHTS, THOUGH HE ACTED IN GOOD FAITH.

PERSON WHO IS NOT A BONA FIDE PURCHASER IS LIABLE FOR THE FRUITS AND REVENUES OF THE PROPERTY FROM THE DATE OF HIS POSSESSION.

PERSON IS NOT A BONA FIDE HOLDER WHO PURCHASES UNDER A VOID JUDGMENT; SUCH A JUDGMENT HAS NO EFFECT AND CAN NOT FORM A BASIS OF TITLE.

C. D. MASTIN V. A. W. MAY
127 MINN. 93 (1914)

FORCIBLE ENTRY AND UNLAWFUL DETAINER.

1. PROCEEDINGS UNDER THE FORCIBLE ENTRY AND DETAINER STATUTE, TO RECOVER THE POSSESSION OF LAND ALLEGED TO BE UNLAWFULLY AND FORCIBLY DETAINED, CANNOT BE MAINTAINED AGAINST A PERSON WHO PEACEABLY AND UNDER CLAIM OF RIGHT ENTERED INTO POSSESSION OF THE PROPERTY, AND DOES NOT FORCIBLY DETAIN THE SAME. Davis v. Woodward, 19 Minn. 137 (174), followed and applied.

SAME — EJECTMENT.

2. THE UNLAWFUL DETENTION, UNACCOMPANIED WITH FORCE, WHERE THE ORIGINAL POSSESSION WAS TAKEN PEACEABLY AND UNDER CLAIM OF RIGHT, IS NOT SUFFICIENT TO AUTHORIZE PROCEEDINGS UNDER SECTION 7657, G.S. 1913. EJECTMENT IS THE REMEDY IN SUCH CASES.

AT 95.

IF THE ENTRY INTO POSSESSION BE UNDER CLAIM OF RIGHT OR PEACEABLY, THEN THE PROCEEDING CANNOT BE MAINTAINED, UNLESS THE POSSESSION THUS TAKEN BE "UNLAWFULLY AND FORCIBLY" DETAINED. THE UNLAWFUL DETENTION IS NOT, STANDING ALONE, SUFFICIENT, WHERE THE PROCEEDING IS FOUNDED UPON SECTION 7657, G.S. 1913. Davis v. Woodward, 19 MINN. 137 (174). THE STATUTE, WITH SOME MODIFICATIONS, IS BUT DECLARATORY OF THE COMMON LAW UPON THE SUBJECT, AND WAS DESIGNED TO PROVIDE A SPEEDY REMEDY TO RECOVER THE POSSESSION OF LAND UNLAWFULLY TAKEN OR FORCIBLY AND UNLAWFULLY DETAINED FROM THE PERSON ENTITLED THERETO. IT WAS NOT INTENDED AS A SUBSTITUTE FOR EJECTMENT (O'Neil v. Jones, 72 Minn. 446, 75 N. W. 701), AND IS ONLY APPLICABLE TO THE CASES SPECIALLY PROVIDED FOR BY THE STATUTE. IN THE CASE AT BAR THE RECORD DOES NOT PRESENT FACTS SHOWING EITHER AN UNLAWFUL OR FORCIBLE ENTRY OF THE LAND IN QUESTION, THE FINDINGS NEGATIVE EITHER THEORY, AND PLAINTIFF CANNOT RECOVER UPON THAT GROUND.

BEIGLER v. CHAMBERLIN (1920)
145 MINN. 104

ATTACHMENT OF HOMESTEAD BY CREDITORS WITHOUT RIGHT TO LIEN.

AT 106 :

...REAL ESTATE WHICH CANNOT BE SEIZED UPON EXECUTION CANNOT BE ATTACHED SO AS TO GIVE A LIEN THEREON. Fletcher v. Tuttle, 97 Me. 491, 54 Atl. 1110.

NO CREDITOR CAN REDEEM FROM AN EXECUTION SALE, UNLESS HE HAS A LIEN ON THE PROPERTY SOUGHT TO BE REDEEMED. THE ONLY LIEN ASSERTED BY PLAINTIFF WAS BY VIRTUE OF THE LEVY MADE UNDER HER ATTACHMENT. IF THE LAND WAS THEN THE HOMESTEAD OF THE DEFENDANT IN THE ACTION, IT WAS EXEMPT FROM SEIZURE AND NO LIEN WAS ACQUIRED BY THE LEVY UNDER THE WRIT. THIS IS SETTLED LAW. IT WAS NOT NECESSARY TO PROTEST THE LEVY. THE DEFENDANT COULD IGNORE IT AND IGNORE A SALE UPON AN EXECUTION ON ANY JUDGMENT THAT COULD BE ENTERED ON THE FINDINGS THAT WERE MADE IN THE CASE, AND AFTERWARDS ASSERT HIS HOMESTEAD RIGHT AS HE HAS DONE IN THIS ANSWER. "THE STATUTE GIVES THE EXEMPTION ABSOLUTELY, AND WITHOUT MAKING THE RIGHT TO IT DEPENDENT UPON ANY AFFIRMATIVE ACTION UPON THE PART OF THE PERSON CLAIMING IT TOWARDS AN OFFICER LEVYING OR ABOUT TO LEVY UPON IT. Ferguson v. Kumler, 25 Minn. 183.

THE SETTLED LAW IS CLEAR, in Beigler v. Chamberlin, supra, THE DEFENDANT COULD IGNORE, "...the findings that were made in the case, and afterwards ASSERT his HOMESTEAD RIGHT as he has done in this ANSWER".

In accordance to the settled law, the findings that were made in HOLMES' Application to Register Land, DID NOT STOP PETITIONERS from asserting Homestead Rights as was done in the ANSWER made in the Mpls. Criminal Court, (P. 204A, Pet. for Writ of Certiorari); NOR, could this finding in land registration, cast a cloud upon PETITIONERS'

BISE v. UNITED STATES, 144 F. 374 (Ind. 1906)

UNDER REV. ST. § 5357 (U.S. Comp. St. 1901, p. 3639), PROVIDING FOR THE PUNISHMENT OF ONE RECEIVING STOLEN GOODS KNOWING THE SAME TO HAVE BEEN STOLEN, IT IS NOT ESSENTIAL TO ALLEGE THAT THE PROPERTY WAS RECEIVED WITHOUT THE CONSENT OF THE OWNER OR WITH INTENT TO DEPRIVE HIM OF ITS VALUE AND BENEFIT; IT BEING SUFFICIENT TO ALLEGE THAT THE ACT WAS UNLAWFUL AND FELONIOUS.

STATE v. BERWEYER, MAN. UNREP. CAS. 180 (1880)

UNDER AN INDICTMENT FOR ROBBERY, THE VALUE OF THE PROPERTY TAKEN IS IMMATERIAL, PROVIDED IT BE OF SOME VALUE. A WATCH WORTH A PENNY FORCIBLY EXTORTED, MAKES THE ROBBERY AS WELL AS IF WORTH A POUND; THE GIST OF THE OFFENSE BEING THE FORCE AND TERROR. IF SOMETHING BE TAKEN AND IT BE OF SOME VALUE, IT IS SUFFICIENT.

STATE v. GOLDMAN, 47 A. 641, 65 N.J. Law, 394 N.J. Sup. 1900)

IN A PROSECUTION FOR RECEIVING STOLEN GOODS THE FACT THAT THEY WERE PURCHASED VERY MUCH BELOW THEIR VALUE MAY BE CONSIDERED ON THE QUESTION OF GUILTY KNOWLEDGE.

PEOPLE v. FLECHTER, 60 N.Y.S. 777, 44 App. Div. 199, 14 N.Y. Cr. R. 328 (N.Y. Sup 1899)

ONE OFFERING TO SELL PROPERTY KNOWING IT TO HAVE BEEN STOLEN HAS THE GUILTY INTENT OF DEPRIVING THE TRUE OWNER THEREOF, AND THE CRIMINALITY OF THE POSSESSION THEREBY BECOMES INDISPUTABLE.

Matson v. Ripley, 98 Ill. App. 479, judgment aff'd (1902) 63 N.E. 677, 196 Ill269.

WHERE A PERSON WITHOUT TITLE TO PROPERTY MAKES A BILL OF SALE OF IT TO ANOTHER, HE CONVEYS NO TITLE.

Commonwealth v. Humphries, 7 Mass. 242; (1851)

ROBBERY, BY THE COMMON LAW, IS LARCENY FROM THE PERSON, ACCOMPANIED BY VIOLENCE OR BY PUTTING IN FEAR: AND AN INDICTMENT THEREFOR MUST ALLEGE THAT THE TAKING WAS FROM THE PERSON, AND THAT IT WAS BY VIOLENCE, OR BY PUTTING IN FEAR, IN ADDITION TO THE AVERMENTS THAT ARE NECESSARY IN INDICTMENTS FOR OTHER LARCENIES.

State v. Nicolson, 32 S.E. 813, 124 N.C. 820.

TO MAKE THE TAKING OF PROPERTY, BY PUTTING THE OWNER IN FEAR, ROBBERY, IT IS NOT NECESSARY THAT THE FEAR AMOUNTED TO GREAT TERROR, BUT IT IS SUFFICIENT IF IT MADE HIM APPREHENSIVE OF DANGER.

Tones v. State, 88 S.W. 217, 48 Tex. Cr. R. 363, 122 Am. St. Rep. 759.

IN A PROSECUTION FOR ROBBERY, IT IS NOT NECESSARY THAT ACTUAL FEAR OF LIFE AND BODILY INJURY ON THE VICTIM'S PART SHOULD BE STRICTLY AND PRECISELY PROVED, AS THE LAW PRESUMES FEAR WHERE THERE APPEARS TO BE JUST GROUND FOR IT.

People v. Stevens, 75 P. 62, 141 Cal. 488

UNDER PEN. CODE, S 211, DEFINING ROBBERY AS THE FELONIOUS TAKING OF PERSONAL PROPERTY FROM THE PERSON AND IMMEDIATE PRESENCE OF ANOTHER BY FORCE OR FEAR, AND AGAINST HIS WILL, THE VALUE OF THE PROPERTY TAKEN IS IMMATERIAL, AND AN ALLEGATION AS TO VALUE IN THE INFORMATION MAY BE DISREGARDED.

Grand Rapids & Indiana R. Co. v. Sparrow et al.
1 LRA 480 (1888 Mich.)

2. The remedy at law which, under U. S. Rev. Stat. § 723, will defeat the equitable jurisdiction of federal courts must be a remedy at common law, and not merely a legal remedy given by a state statute.

The suit was commenced in the Circuit Court of the State of Michigan for Missaukee County, and thence removed into the United States Circuit Court by the defendants, on the ground that it was a case arising under the laws of the United States.

The equity jurisdiction conferred on the federal courts is the same as that possessed by the High Court of Chancery in England; it is subject to neither limitation nor restraint by state legislation, and is uniform throughout the different States. Payne v. Hook 74 U.S. 7 Wall. 430 (19 L. ed. 262).

But when the Act defining the jurisdiction of the federal courts in equity was passed, and suits were forbidden when a plain, adequate and complete remedy at law existed (U.S. Rev. Stat. § 723), it was the remedy furnished by the common law which was thereby intended. Supplementary statutes giving new legal remedies do not disturb the original equitable jurisdiction, nor supplant it.

CURTIS AND OTHERS AGAINST LEAVITT
15 N.Y. (1 SMITH) 96 (1857).

"...VOID IN PART, VOID IN TOTO" HAS OFTEN FOUND ITS WAY INTO BOOKS AND JUDICIAL OPINIONS AS DESCRIPTIVE OF THE EFFECT WHICH A STATUTE MAY HAVE UPON DEEDS AND OTHER INSTRUMENTS WHICH HAVE IN THEM SOME FORBIDDEN VICE. THERE IS, HOWEVER, NO SUCH GENERAL PRINCIPLE OF LAW AS THE MAXIM WOULD SEEM TO INDICATE. ON THE CONTRARY, THE GENERAL RULE IS, THAT IF THE GOOD BE MIXED WITH THE BAD IT SHALL NEVERTHELESS STAND, PROVIDED A SEPARATION CAN BE MADE.

THE EXCEPTIONS ARE: FIRST. WHERE A STATUTE, BY ITS EXPRESS TERMS, DECLARES THE WHOLE DEED OR CONTRACT VOID ON ACCOUNT OF SOME PROVISION WHICH IS UNLAWFUL: AND, SECOND. WHERE THERE IS SOME ALL-PERVADING VICE, SUCH AS FRAUD, FOR EXAMPLE, WHICH IS CONDEMNED BY THE COMMON LAW, AND AVOIDS ALL PARTS OF THE TRANSACTION BECAUSE ALL ARE ALIKE INFECTED.

CONLEY v. BUCK. 29 S.E. 710. 102 Ga. 752

A CREDITOR BROUGHT AN EQUITABLE PROCEEDING TO HAVE A CONVEYANCE BY THE DEBTOR SET ASIDE AS FRAUDULENT. JUDGMENT WAS RENDERED DECLARING THE CONVEYANCE FRAUDULENT AS TO THE CREDITOR.

HELD, THAT THE CREDITOR WAS NOT ENTITLED TO HAVE EXECUTION FOR HIS DEBT ISSUED ON THIS JUDGMENT.

PETSCH v. BIGGS 31 MINN. 392

THIS CHAPTER PROVIDES THAT ALL MATTERS IN EXCUSE, JUSTIFICATION AND AVOIDANCE OF THE ALLEGATIONS IN THE COMPLAINT SHALL BE SET UP IN THE ANSWER. THIS MUST BE UNDERSTOOD TO REFER TO MATTERS WHICH PER SE CONSTITUTE AN EXCUSE, JUSTIFICATION OR AVOIDANCE, WHICH OF THEMSELVES, AND WITHOUT AFFIRMATIVE AID FROM A COURT, ENTITLE THE DEFENDANT TO RETAIN THE PRESENT POSSESSION, AND DOES NOT INCLUDE THOSE MATTERS UPON WHICH A PROPER COURT MIGHT AFFORD THE DEFENDANT AFFIRMATIVE RELIEF, AND WHICH GO TO HIS RIGHT TO POSSESSION, ONLY AFTER SUCH RELIEF HAS BEEN GRANTED.

STATE v. DRUXINMAN, 75 P. 814, 34 Wash. 257 (1904)

IN A PROSECUTION FOR BUYING AND RECEIVING STOLEN GOODS KNOWING THE SAME TO HAVE BEEN STOLEN THE COURT INSTRUCTED THAT THE ESSENTIAL INGREDIENT WAS KNOWLEDGE THAT THE GOODS WERE STOLEN, AND THAT THIS MUST EXIST AT THE TIME OF THEIR RECEIPT OR PURCHASE, BUT THAT IT NEED NOT BE DIRECT KNOWLEDGE, AND THAT IT WAS SUFFICIENT THAT CIRCUMSTANCES ACCOMPANYING THE TRANSACTION WERE SUCH AS TO MAKE DEFENDANT BELIEVE THE GOODS WERE STOLEN. HELD A CORRECT STATEMENT OF THE LAW GOVERNING SUCH CASES.

THE STATE v. SPRINGDALE, 215 NE 2d 592 (1966)

2. Corporations Key 320(4)

WHERE OFFICERS OR DIRECTORS OF CORPORATION WILL NOT DISCHARGE THEIR DUTY, CORPORATION IS ORDINARILY PROPER PARTY TO REDRESS WRONG, BUT IF DIRECTORS ARE PARTIES TO WRONG OR WILL NOT BRING ACTION, OR BOTH, SHAREHOLDERS MAY SUE.

3. MUNICIPAL CORPORATIONS Key 997

RESPONSIBILITY FOR ENFORCEMENT OF PUBLIC RIGHT TO PERFORMANCE OF PUBLIC DUTY BY OFFICER OF MUNICIPAL CORPORATION IS IMPOSED IN FIRST INSTANCE UPON SOLICITOR. R.C. § 733.58.

4. MUNICIPAL CORPORATIONS Key 999

ONLY UPON FAILURE OF SOLICITOR TO ACT, PURSUANT TO REQUEST, MAY PRIVATE PARTY INSTITUTE SUIT IN HIS OWN NAME, ON BEHALF OF MUNICIPAL CORPORATION. R.C. § 733.59.

5. MUNICIPAL CORPORATIONS KEY 999

STATUTE PROVIDING THAT PRIVATE PARTY MAY SUE TO PROTECT PUBLIC ONLY AFTER UNSUCCESSFUL REQUEST UPON SOLICITOR TO ACT WAS INTENDED TO PREVENT MUNICIPAL CORPORATION FROM BECOMING PLAINTIFF IN COURT WITHOUT ITS CONSENT. R.C. § 733.59.

POPPEN v. WADLEIGH 1952, 235 MINN. 400.

PROVISION OF THIS SECTION FOR TREBLE DAMAGES IS APPLICABLE ONLY IF A GOOD CAUSE OF ACTION EXISTS FOR DAMAGES CAUSED BY A FORCIBLE EVICTION.

UNDER THIS SECTION JURY IS TO ASSESS SINGLE DAMAGES AND TRIAL COURT MUST TREBLE SUCH DAMAGES IN A CASE WHICH IT DEEMS PROPER.

"FORCIBLE MANNER" MEANS UNUSUAL FORCE WHICH TENDS TO BRING ABOUT A BREACH OF THE PEACE, SUCH AS ENTRY WITH A STRONG HAND OR A MULTITUDE OF PEOPLE, IN A RIOTOUS MANNER, WITH PERSONAL VIOLENCE OR WITH THREAT AND MENACE TO LIFE OR LIMB, OR UNDER CIRCUMSTANCES WHICH WOULD NATURALLY INSPIRE FEAR AND APPREHENSION OF DANGER OF PERSONAL INJURY.

XXI. CERTIFICATE OF PETITIONERS.

PAUL DAN ROSSO AND MELBA P. EVANSON, PETITIONERS IN THEIR OWN BEHALF HEREIN, REPRESENTS THAT THIS PETITION FOR REHEARING IS PRESENTED IN GOOD FAITH AND NOT FOR DELAY, AND THAT IT STATES SUBSTANTIAL GROUNDS NOT PREVIOUSLY PRESENTED IN THE PETITION FOR WRIT OF CERTIORARI, AND IS THE LAST CLEAR CHANCE TO SET ASIDE VOID JUDGMENTS AND PURGE THE RECORDS, AND OBTAIN AFFIRMATIVE EQUITABLE RELIEF.

Respectfully submitted,

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